

ISSUE

ELECTED OFFICIALS

YOU, WHO ARE ELECTED OFFICIALS ARE GOING TO
TO MAKE A DECISION WHICH WILL EFFECT EVERY
ONE IN THIS AREA. NO ONE WHO IS REGISTERED
IN THIS AREA HAD A CHANCE TO VOTE FOR ANY
ONE OF YOU.

PRESENTED By
DAN TATMAN
SHERWOOD

ISSUE

NOTIFICATION

TO THE BEST OF MY KNOWLEDGE THE LAND
OWNERS AND REGISTERED VOTERS WHO LIVE
ADJACENT TO THIS AREA WERE NEVER NOTIFIED.

ISSUE

PLAN

AT THIS TIME THERE IS NO DEVELOPMENT PLAN
FOR THIS AREA. (NO PLAN, SPRAWL)

ISSUE

OUT SIDE CONSIDERATIONS

WHAT DOES WASHINGTON AND CLACKMAS
COUNTIES HAVE TO SAY ON PROPOSED
DEVELOPMENT AREA.

ODOT

SHERWOOD

STATE OF OREGON

ISSUE

WATER

AT THE LAST MEETING I ATTENDED IN SHERWOOD CONCERNING THIS AREA'S WATER. ONE OF THE PROBLEMS WAS SOME OF THE PROPOSED AREA WAS TOO HIGH IN ELEVATION FOR CITY WATER.

(LOT 31WO6BO2400, 31WO6B02300)

ISSUE

PGE GAS LINE

25 INCH GAS LINE RUNNING FROM EAST TO WEST
IN PROPOSED ANNEXATION AREA. NO FIRM ROUTE
HAS BEEN DECIDED ON.

ISSUE

EQUESTRIAN CENTER

DIRECTLY TO THE WEST ACROSS HWY 99 THERE
IS A BRAND NEW 18 MILLION DOLLAR
EQUESTRIAN CENTER. THE WIND PRIMARILY
COMES FROM THE SOUTH WEST.

ISSUE

ANNEXATION PETITION SIGNATURES

1. SIGNATURES COUNTED AS VALID SIGNED BY SAME PERSON.
2. ALL SIGNATURES ARE OVER ONE YEAR OLD.
3. THERE ARE NOW HOME OWNERS WHO LIVED IN THE ARE WHEN THE PETITION WAS BEING SIGNED, WHO ARE NOW REGISTERED AND WISH THEIR NO VOTES TO BE COUNTED.

Metro District Annexation Annexation Petition

To the Metro Council:

We, the undersigned owner(s) of property described below and or elector(s) residing at the referenced location, hereby petition for, and give consent to, annexation of said property to the Metro District. We understand that the Metro Council will review this request in accordance with Chapter 3.09 of the Metro Code and the Oregon Revised Statutes to determine whether to approve or deny this request.

Signature	Printed Name	I am a*			Address	Property Description			Date
		PO	RV	OV		Township/ Range and Section Map Number	Tax lot	Precinct Number	
	Donald L. Blanchard			✓	16490 SW Brookman Rd Sherwood, OR 97140	03S-01W-05	1802	337	10/19/99
	Donald L. Blanchard	✓			16490 SW Brookman Rd Sherwood	03S-01W-05	1801	337	10/19/99
	SUSAN H. Blanchard			✓	16490 SW Brookman Rd Sherwood, OR 97140	03S-01W-05	1802	337	10/19/99
	SUSAN H. Blanchard	✓			16490 SW Brookman Rd Sherwood, OR 97140	03S-01W-05	1801	337	10/19/99
	John Blanchard		✓		16490 SW Brookman Rd Sherwood, OR 97140	03S-01W-05	1802	337	10/19/99
	Lisa Buchholz		✓		24255 SW Baker Rd Sherwood, OR 97140	03S-01W-05	00400	337	10/27/99
	Julie K. Edy		✓		24245 SW Baker Rd Sherwood, OR 97140	31W05 03S-01W-05	0102	337	10/28/99
	Julie K. Edy	✓			24245 SW Baker Rd Sherwood, OR 97140	31W05 03S-01W-05	0101	337	10/28/99
	Julie K. Edy	✓			24245 SW Baker Rd Sherwood, OR 97140	31W05 03S-01W-05	0104	337	10/28/99
	Julie K. Edy	✓			24245 SW Baker Rd Sherwood, OR 97140	31W05 03S-01W-05	0102	337	10/28/99
	JAMES W. Edy		✓		24245 SW Baker Rd Sherwood, OR 97140	31W05	0102	337	10/28/99
	Troy M. Boesl		✓		24245 SW Baker Rd Sherwood, OR 97140	03S-01W-05	00700	337	10/28/99
	Jonathan W. Edy		✓		24245 SW Baker Rd Sherwood, OR 97140	03S-01W-05	0102	337	10/28/99
	Sara K. Edy		✓		24245 SW Baker Rd Sherwood, OR 97140	03S-01W-05	0102	337	10/28/99

PO: Property owner
RV: Registered voter
OV: Property owner and registered voter

i:\gm\long_range_planning\staff\neil\URAs\annexpetform

**SAME PERSON
SIGNED FOR EDY?**

Metro District Annexation Annexation Petition

To the Metro Council:

We, the undersigned owner(s) of property described below and or elector(s) residing at the referenced location, hereby petition for, and give consent to, annexation of said property to the Metro District. We understand that the Metro Council will review this request in accordance with Chapter 3.09 of the Metro Code and the Oregon Revised Statutes to determine whether to approve or deny this request.

Signature	Printed Name	I am a*			Address	Property Description			Date
		PO	RV	OV		Township/ Range and Section Map Number	Tax lot	Precinct Number	
Eugenia H. Voss	EUGENIA H. VOSS			✓	24325 SW Baker, Sherwood, OR 97140	03S-01W-05	00600	337	11/1/99
Eugenia H. Voss	EUGENIA H. VOSS	✓			24325 SW Baker, Sherwood, OR 97140	03S-01W-05	00100	337	11/1/99
Eugenia H. Voss	EUGENIA H. VOSS	✓			24325 SW Baker, Sherwood, OR 97140	03S-01W-05	00103	337	11/1/99
Jeannette L. Voss	JEANNETTE L. VOSS		✓		24061 SW Baker Rd., Sherwood, OR	03S-01W-05	00100	337	11/1/99
Brian C. Keohane	BRIAN C. KEOHANE			✓	24265 S.W. BAKER Rd., SHERWOOD, OR	31 W05	00500	337	11/1/99
Kimberly J. Keohane	KIMBERLY J. KEOHANE			✓	24265 S.W. BAKER Rd., SHERWOOD, OR	31 W05	00500	337	11/1/99

**SAME
PERSON
SIGNED FOR
KEOHANE?**

PO: Property owner

RV: Registered voter

OV: Property owner and registered voter

ISSUE

LAND VALUE

TWO ACRE HOMESTEAD RECENTLY SOLD FOR 325 THOUSAND DOLLARS. A LAND DEVELOPER CAN ONLY PAY 100 THOUSAND PER ACRE . MONEY LOST TO HOME OWNER OVER A THOUSAND DOLLARS.

ISSUE

NEW HOME OWNERS

THERE ARE NEW HOME OWNERS WHO DO NOT WANT TO BE ANNEXED THAT HAVE REPLACED PREVIOUS HOME OWNERS WHO DID.

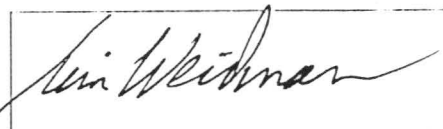
1	Are you a U.S. Citizen? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <small>Only U.S. citizens may register to vote</small>		
2	Last Name <u>Weidman</u>	First Name <u>Roxanne</u>	Middle Name <u>Ruth</u>
3	Home Address (include apt. or space #) <u>24560 S.W. Middleton Rd.</u>		City <u>Sherwood</u> Zip Code <u>97140</u>
4	Mailing Address, if different than #3		City Zip Code
5	Date of Birth <u>11/10/62</u> <small>Month/ Day / Year</small>		
6	Choose One Party: <input type="checkbox"/> Democratic <input type="checkbox"/> Libertarian <input type="checkbox"/> Pacific Green <input checked="" type="checkbox"/> Republican <input type="checkbox"/> Other party <input type="checkbox"/> Print other party name here <input type="checkbox"/> Not a member of a party		
7	I Swear Or Affirm That → Sign In Box → <u>Roxanne Weidman</u> Date Today <u>11/3/00</u> I am a citizen of the United States I am an Oregon resident I will be 18 years or older on election day I have told the truth on this registration		
8	County Where You Live <u>Washington</u>		9 Phone Number (Optional)

If Previously Registered to Vote, Complete this Section

10	Previous Registration Name <u>Roxanne Weidman</u>	11	Previous County and State <u>Multnomah, OR</u>
12	Home Address on Previous Registration <u>5916 SE Francis St.</u>	13	Date of Birth <u>11/10/62</u>

The Deadline to Submit this Card

Important! This card must be postmarked by the 21st day before an election, unless you are already registered to vote and are using it to change information on your registration.

1	Are you a U.S. Citizen? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <small>Only U.S. citizens may register to vote</small>		
2	Last Name <i>Weidman</i>	First Name <i>Timothy</i>	Middle Name <i>Burton</i>
3	Home Address (include apt. or space #) <i>24560 SW Middleton Road</i>		City <i>Sherwood</i> Zip Code <i>97140</i>
4	Mailing Address, if different than #3		City Zip Code
5	Date of Birth <i>1/3/62</i>	7	I Swear or Affirm that → Sign Here  Date Today <i>11/30/00</i>
6	Choose One Party: <input type="checkbox"/> ← Democratic <input type="checkbox"/> ← Libertarian <input type="checkbox"/> ← Natural Law <input type="checkbox"/> ← Pacific <input type="checkbox"/> ← Reform <input checked="" type="checkbox"/> ← Republican <input type="checkbox"/> ← Socialist <input type="checkbox"/> ← Other party <input type="checkbox"/> ← <small>Print other party name here</small> <input type="checkbox"/> ← Not a member of a party		
		• I am a citizen of the United States • I am an Oregon resident • I will be 18 years or older on election day • I have told the truth on this registration WARNING: If you sign this card and know it to be false, you can be convicted and fined up to \$100,000 and/or jailed for up to 5 years.	

DO NOT TEAR OR FOLD

8	County Where You Live <i>Washington</i>	9	Phone Number (Optional)
If Previously Registered to Vote, Complete this Section			
10	Previous Registration Name	11	Previous County and State <i>multnomah</i>
12	Home Address on Previous Registration <i>5916 SE Francis Portland 97206</i>	13	Date of Birth <i>1-3-62</i>
To Register as a Permanent Absentee Voter, Please Complete this Section			
<input type="checkbox"/> I would like to register as a permanent absentee voter. Please mail me a ballot for all future elections.			
Mail My Ballot to: _____ <div style="display: flex; justify-content: space-between; width: 100%;"> Address City State Zip Code </div>			
Name (Print): _____ Signature: _____			
The Deadline to Submit this Card			
Important! This card must be postmarked by the 21st day before an election, unless you are already registered to vote and are using it to change information on your registration.			



First American Title Insurance Company of Oregon

10735 SE Stark Street, Suite 100

Portland, OR 97216

Phone: (503) 255-9103 Fax: (503) 255-4327

September 28, 2000

Mr & Mrs Weidman
24560 SW Middleton Rd
Sherwood, OR 97140

Re: Escrow No.: 00020889
Seller: OCWEN
Buyer: WEIDMAN; TIMOTHY & ROXANNE
Property: 24560 SW Middleton Rd
Sherwood, OR 97140

Dear Mr & Mrs Weidman:

CONGRATULATIONS on the closing of your transaction! It is our pleasure to send you a copy of the final documentation for your records. Enclosed please find the following original documents for you to retain:

(X) Final Closing Statement(s) - HUD-1 and/or Buyer's Closing Statement

We at First American Title would like to take this opportunity to let you know it has been a privilege closing this transaction for you. We look forward to the next one! We invite you to call us for all your title and escrow needs.

Sincerely,
First American Title Insurance Co.

Dorrie L. Gengler
Escrow Officer

THANK YOU FOR CHOOSING FIRST AMERICAN TITLE
We look forward to assisting you in all of your title and escrow needs

To Metro Council,

My husband and I have purchased a home at 24560 SW Middleton Rd. in the area under consideration. Unlike the previous home owners, we do not wish to be annexed into the city of Sherwood.

Please find enclosed copies of change of voters registration to Washington County along with a letter from the title company. Please accept both of us as a "no" voice for annexation.

Sincerely,

Tim Weidman
Roxanne Weidman

A handwritten signature in cursive script, appearing to read "Tim Weidman".A handwritten signature in cursive script, appearing to read "Roxanne Weidman".

ISSUE

HOW IS LAND SELECTED

EXAMPLE ONE : LOT 31W06B02400 WANTS TO
BE INCLUDED.
LOT 31W06B02300 DOES NOT

IN PETITION BOTH LOTS ARE INCLUDED. LOTS ALL
AROUND LOT 2300 ARE NOT. WHY WAS LOT 2300
INCLUDED?

EXAMPLE TWO: LOT 500 IS INCLUDED IN PETITION.

LOT 500 OWNER OWNS LAND SOUTH AND WEST OF
LOT AS WELL. THEY DO NOT WANT TO BE
INCLUDED. WHY WAS NOT ALL ADJACENT LAND
OWNED BY SAME PERSON INCLUDED OR
EXCLUDED?

Proposal No. MU1000-A

3S1W05

Annexation to the Metro Jurisdictional Boundary

Clackamas Co.



R L I S
REGIONAL LAND INFORMATION SYSTEM



800 NE Grand Ave.
Portland, OR 97232-2736
Voice 503 797-1742
FAX 503 797-1909
Email dro@metro-region.org

METRO

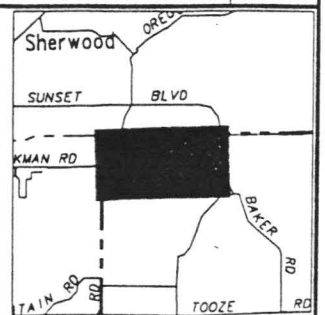
The information on this map was derived from digital databases on Metro's GIS. Care was taken in the creation of this map. Metro cannot accept any responsibility for errors, omissions, or positional accuracy. There are no warranties, expressed or implied, including the warranty of merchantability or fitness for a particular purpose, accompanying this product. However, notification of any errors will be appreciated.

- Metro boundary
- Annexation boundary
- Area to be annexed

Proposal No. MU1000-A
METRO JURISDICTIONAL BOUNDARY
Figure 1

Scale: 1" = 750'

0 500 1000



3S1W06

Washington Co.



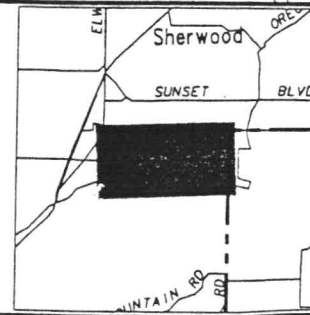
METRO

The information on this map was derived from digital databases on Metro's GIS. Care was taken in the creation of this map. Metro cannot accept any responsibility for errors, omissions, or positional accuracy. There are no warranties, expressed or implied, including the warranty of merchantability or fitness for a particular purpose, accompanying this product. However, notification of any errors will be appreciated.

Proposal No. MU1000-B
METRO JURISDICTIONAL BOUNDARY
Figure 1

Scale: 1" = 750'

0 500 1000



RECEIVED
METRO-ACCT. DEPT
00 NOV 29 AM 10:08

November 22, 2000

Metro
600 Northeast Grand Avenue
Portland, Or. 97232

Dear Metro Council,

I am writing to inform you of my support for the new proposed annexation of property into the city of Sherwood, Oregon Case 00-880 (map No. MU1000-A, B and C).

In that I have lived in the Sherwood area from 1970 through 1999 we have seen a lot of changes to our little town which in almost 30 years is bound to happen.

Our last residence, which we still own at 16470 SW Brookman Road was our dream come true. We could ride our horses down the road and take walks with out worry of being ran down by a car. We could water our lawns without being afraid of running out of water, which my self as well as most of my neighbors have experienced in the past couple years, yet we can drive through the developments in the summer and watch all the nice green lawns being watered day and night from new wells put in service by the city of Sherwood. We have watched virtually hundreds of people move into our little town and ruin the life style we so much loved.

The last meeting I attended in Sherwood was completely dominated by a couple gentlemen that were vary adamant about no future growth for Sherwood. Its funny that these same people are the ones that moved into these new subdivisions, got their piece of view property, their nice green lawns and took away the country life style most of us moved to Sherwood years ago to have.

Most of our neighbors as well as our family have moved out of the area and are renting our places out just waiting for our property to be placed in the Metro Jurisdictional Boundary. We have been told for years that this would happen and it appears that due to some problems with the city of Sherwood and now I understand maybe a problem with Metro itself being headed up by people that are opposed to new growth that we are still in limbo.

I will get off my soap box now and just ask that you take into consideration some of the issues I presented above.

My property is located in map No. MU1000-A.

Thank You


Garry Doane Construction

63946 Pioneerhoop
Bend OR 97701

December 5, 2000

Honorable David Bragdon, Presiding Officer
METRO Council Members
Metropolitan Service District, Regional Center
600 NE Grand Avenue
Portland OR 97232

Re: Agenda Item 7.1
Sherwood Annexation to METRO Jurisdictional Boundary:
Case 00-880

Dear Honorable Bragdon:

We appreciate the opportunity to comment on the above-referenced proposal for a potential annexation of approximately 317 or 335 acres. We respectfully request that this letter become part of the official record for the above proceedings.

The Department strongly supports METRO staff's recommendation of DENIAL. We concur with the opinion of Dave Wechner, Planning Director, City of Sherwood, that annexation to the jurisdictional boundary is premature or untimely. Further, we concur with the staff analysis in the staff report that urban services are not presently available to serve the subject area.

With regard to the Tualatin Sherwood Connector for a future I-5 to 99W link, we find that addition of such a bifurcated area, located at opposite ends of what was formerly known as urban reserve area #45, would not be in the public interest or consistent with the 2020 Regional Transportation Plan. A proponent of a jurisdictional annexation in the Sherwood area must show how the anticipated Tualatin Sherwood Connector would form the "hard edge in the ultimate urban form of the Sherwood area", as stated in the RTP. Comprehensive transportation planning is better served by such documentation: regional transportation facility choices should not be driven by land speculation.

We support two conceptual alternative alignments for this facility. Both of these should be carefully considered by METRO at this and future considerations of jurisdictional boundary movements.

One is the use of the connector to serve as the southern boundary of the ultimate urban growth area in the general Sherwood area, as suggested in the RTP language above – a longer-term possibility. The second is the continued exploration of a corridor alignment within the existing UGB in the shorter-term, more desirable from our point of view, since an exception process would not apply.

Thank you for the opportunity to comment on this proposal.

Sincerely yours,

Meg Fernekees
Portland Metro Area Regional Representative



STEPHEN G. BAKER
ESTATES DIRECTOR
COLDWELL BANKER
JON DOUGLAS COMPANY
301 NORTH CANON DRIVE
BEVERLY HILLS, CALIFORNIA 90210

BUSINESS 310 777-6200
DIRECT 310 777-6205
FAX 310 278-7192
E-MAIL: SGB90210@AOL.COM

December 7, 2000 12:30PM PST

METRO COUNCIL OFFICE

Attn.: Sandra

Via Fax: 503-797-1793

Re: Sherwood, Oregon Proposed Annexation
Case 00-880 (Map No. MU1000-A, B, and C)

For The Record and To Whom It May Concern:

I am an owner of several properties south of the Proposal No. MU1000-A affecting S.W. Baker Road. I wish to register my **OBJECTION** to annexation of the proposed parcels because of the following concerns:

1. This is another example of urban sprawl from Sherwood causing an intrusion into farm land and immediately adjacent to EFU zoning. I view this as the "nibbling effect." The city limits and the UGB should remain where they are. The parcels under consideration are of a 1,2, 5, etc. acre size. Such parcels create an appropriate transition from the tract SFR developments to the north to the large EFU farm parcels immediately to the south and east. Additionally, the topography and the large Douglas Fir groves create an additional transition that is of both a visual and a psychological value in preserving the country/rural feeling and quality of life for ALL of Sherwood.
2. This small parcel appears to be similar to "spot zoning" to allow an incursion into another lower density area.
3. Sherwood's growth has been rapid during the last decade. How many more SFR housing developments on the far outskirts of town are needed?
4. If this area is annexed, it will pave the way for another small group of adjacent landowners to band together and make a case for annexation in the future. Where will this stop?
5. I feel that this Proposal violates the intent and the spirit of maintaining a strong enforcement of Urban Growth Boundaries.

Please **DENY** this proposed annexation. Thank you in advance for your consideration.

Stephen G. Baker (Tele. 310-777-6205)
13700 S. W. Bell Road
Sherwood, Oregon 97140

STEPHEN G. BAKER
ESTATES DIRECTORCOLDWELL BANKER
JON DOUGLAS COMPANY
301 NORTH CANON DRIVE
BEVERLY HILLS, CALIFORNIA 90210BUSINESS 310 777-6200
DIRECT 310 777-6205
FAX 310 278-7192
E-MAIL SGB90210@AOL.COM

Facsimile Transmission Cover

From The Office Of:

Stephen Baker301 North Canon Drive
Beverly Hills, California 90210, U.S.A.

Tel: (310) 777-6205 Fax: (310) 278-7192

To: SandraDate: 12-07-00Company: Metro Council OfficeFax: 503/797-1793Number of pages including this cover sheet: 02Original ☐ will ☒ will not follow by mail.URGENT
Σ

Comments:

Re: Case 00-880
MU1000A, B + CFor the record, please submit to
the Council Hearing scheduled for
today at 2PM. — I thank you.

120700c-12

Testimony in regard to:
Proposed annexation to Metro
South of Sherwood
<date>

Presiding officer Bragdon and Metro councilmen my name is Tom Aufenthie. I live at 15674 Highpoint Drive in Sherwood, Or. Following is my testimony in opposition to the petition of Feb. 25 as resubmitted on Oct. 2, 2000 to annex approximately 317 acres South of Sherwood to Metros jurisdiction..

My comments make reference to and supplement the Metro staff report of Nov. 21, 2000 recommending denial of the petition..

1.Double Majority Requirement (staff report page 2)

The staff report mentions that 64 electors out of a total of 122 signed the petition. The initial petition (page 2) discusses a total of 121..In any event 64 were in favor or 52.89% as cited in the application..

I bring to your attention a discussion on page 5 of the draft concept plan for area 45 with the heading, West of Ladd Hill Road. It mentions an area not serviceable by city water that contains two tax lots (s1w05b 02400 & s1w05b 02300) included in the petition.. I believe these two lots should be excluded from the calculations..

While excluding these two lots may not bring the majority vote to less than 50%, I believe there are other properties that have changed hands since the original submission or persons who have changed their minds on the matter and I ask that if the staff take a another look to see if the double majority requirement still holds for this petition..

2.Consistency with comprehensive plans etc. (staff report page 4, para 3)

Not mentioned in the staff report or the petition is the proposal by Northwest Natural gas to lay a pipeline adjacent to Brookman road which crosses through the petitioners property..If authorized, I believe construction is scheduled to start in 2001..I believe the pipeline includes a 50 foot wide No Build right of way..

The petitioners fail to mention any input from The Sherwood school district, fire department, Washington/Clackamas county, or the Oregon Department of transportation..

Sherwood is in the throes of developing its transportation plans..One element being discussed is the possibility of limiting development impacts on Highway 99..The concept plan prepared for area 45 indicates a Village center on the petitioners land adjacent to Highway 99..Indicating another stoplight as well as traffic impacts on Highway 99..Not mentioned in the petitioners document, but discussed at some length in the concept plan is the uncertainty about a proposed I-5 to 99W limited access toll road described in Metros RTP..Uncertainty about the exact location, timing, feasibility and impacts on the land

South of Sherwood are discussed..

I have reviewed the Alternatives analysis prepared by metro staff..Petitioners land area is included in area 15A and 15B..The "2000 Agricultural analysis" discusses the impacts urbanization of these areas will have on roads in the area..Notably, it mentions significant traffic impacts on Brookman, Ladd Hill and Oberst Lane..However, it avoids any mention of the impacts on Highway 99 W...I believe this to be a shortcoming of the overall analysis. Furthermore, it makes no mention of the proposed I-5 to 99 W connector..

A second document titled, "Metro Alternatives Sites Study" prepared by Pacific rim resources under contract dated June 30, 2000 discusses (pages 49a-54a) alternative sites 15A, 15B, and 15C adjacent to Sherwood as Being Serviced by Wilsonville with relative ease!

I believe this to be a gross error ! If I am right in the matter I would like you to ask that the taxpayer funds doled out to this contractor be returned to Metro..

Sherwoods Existing Urban Growth Boundary

The concept plan for area 45 indicates that if implemented the buildout population for Sherwood would be 25,000 people..Sherwood currently has a population of 10,000..The concept plan proposes adding roughly 5000 people..This indicates that Sherwood currently has sufficient land to accommodate another 10,000 people within its current urban growth boundary..This may be sufficient for the next 20 years.!!

In 1996 Sherwood issued 630 building permits..In 2000 the count has decreased to 212 and it continues downward..This can be verified by the city.

Impacts of Measure 7

The area proposed by the petitioners contains numerous streams buffered in the concept plan by 200 buffer strips pending the resolution of the requirements of goal 5..Some 28% of the land area is included in these buffers..The citizens of Sherwood just refused to pass a bond measure to support existing schools..I would suspect they would strongly protest paying landowners for land Taken to protect aquatic resources if they had the opportunity to be heard on the matter. The Sherwood city council has yet to address the impacts of measure 7 on its planning process..

Thank you for the opportunity to provide input to your decision making process regarding the area south of Sherwood..

Please let me know if you have any questions for regarding this testimony..

Ph. 503-625-1608 Tom Aufenthie taufenthie@yahoo.com



Oregon

John A. Kitzhaber, M.D., Governor

Department of Land Conservation and Development

635 Capitol St. NE, Suite 150

Salem, Oregon 97301-2540

Phone (503) 373-0050

Director's Fax (503) 378-5518

Main Fax (503) 378-6033

Rural/Coastal Fax (503) 378-5518

TGM / Urban Fax (503) 378-2687

Web Address: <http://www.lcd.state.or.us>

1207006-13

December 1, 2000

MEMORANDUM



TO: Land Conservation and Development Commission
FROM: Richard P. Benner, Director *RS*
SUBJ: Measure 7

The passage of Measure 7 presents many significant issues to the statewide planning program. Because so much of the measure is ambiguous, it is difficult to understand its full implications. The Governor has asked the Attorney General to explain the measure. An opinion from the Attorney General is expected very soon. I expect the opinion will offer guidance on many questions. I will make certain you receive a copy as soon as possible. In the meantime, I am able to offer the following information.

Effect on Existing Law: Measure 7 did not repeal land use or environmental laws, rules or local plans or land use regulations. All these laws continue to apply as they did before passage of the measure. (See 11/15/00 memorandum from Don Arnold, Chief Counsel, General Counsel Division, Oregon Department of Justice, attached).

Enforcement of Existing Law: Because existing laws remain in effect, including laws that direct the agency to enforce the state's land use laws (ORS 197.090, 197.319, 197.636), the agency must continue to enforce those laws. The earliest and most significant enforcement problem likely to confront the agency is the adoption by cities and counties of ordinances that authorize waiver of land use regulations in order to avoid compensation claims. These ordinances may violate state land use laws to the extent the authorize waiver of land use regulations that derive from those laws.

Existing Programs – Periodic Review: Many cities and counties (over 100) are working on periodic review. Each has a work program with a number of work tasks. Some work tasks call cities and counties to adopt or amend plans or land use regulations. Arguably, some of these adoptions or amendments would reduce the value of some affected properties. Of course, cities and counties will be reluctant to take these actions. Nonetheless, state statutes on periodic review require them to take these actions so long as state planning law requires them.



Existing Programs – Grants: Some periodic review and technical assistance grants have conditions that require, and offer grant assistance for, adoption of amendments to local land use regulations. Some of these amendments may reduce the value of some affected properties. If local governments decide not to adopt the amendments, the department will have to renegotiate the grant agreements.

Rulemaking: The department advises the commission not adopt or amend rules that may be interpreted to reduce property values for the following reasons: (1) to avoid exposing local governments or the state to compensation claims; and (2) to avoid exposing existing rules and ordinances to claims by a new set of property owners who acquired property after the effective dates of the original rules.

Compensation Claims: The Department of Land Conservation and Development (DLCD) does not currently have authority to accept or process claims for compensation (See 11/15/00 memorandum from Don Arnold, Chief Counsel, General Counsel Division, Oregon Department of Justice, attached). At the time the agency does have such authority, it will need such a process. The Department of Justice will advise agencies a claims procedures.

Clean Air Act

Transportation Control Measures

Several significant Transportation Control Measures (TCMs) identified in Metro's Regional Transportation Plan (RTP) were included in motor vehicle emission forecasts prepared by Metro for the maintenance plan. Because these measures reduce motor vehicle emissions, the FCAA transportation conformity process requires DEQ to identify them in the maintenance plan to ensure that they are funded and implemented in a timely manner.

The TCMs identified in the maintenance plan fall into two categories: non-funding based TCMs and funding based TCMs. The non-funding based TCMs reduce transportation emissions through land-use requirements and regulatory programs. The funding based TCMs reduce transportation emissions by increasing the supply of transit, bicycle and pedestrian facilities. The funding based TCMs were established in the financially constrained transportation network of Metro's interim federal RTP, adopted July, 1995, in accordance with the requirements of the federal Intermodal Surface Transportation Efficiency Act (ISTEA). This network includes only projects that can be financially supported based on historical trends.

The funding based TCMs must receive priority funding in Metro's transportation planning process and all TCMs identified in the maintenance plan must receive timely implementation. If the TCMs do not receive priority funding and timely implementation, a conformity determination can not be made for Metro's transportation plans and all regionally significant projects will be held up until a conformity determination can be made. These requirements are specified in the transportation conformity rules, OAR 340-020-0710 through 340-020-1080. In general, "priority funding" means that all state and local agencies with influence over approvals or funding of the TCMs are giving maximum priority to approval of funding of the TCMs over other projects within their control. "Timely implementation" means that the TCMs are being implemented consistent with the schedule established in the maintenance plan. The determination of whether priority funding and timely implementation have been achieved is made in the context of interagency consultation as specified in the transportation conformity rules.

Identified TCMs may be substituted in whole, or in part, with other TCMs providing equivalent emission reductions. Substitution occurs through consultation with Metro's Transportation Policy Alternatives Committee (TPAC) and Joint Policy Advisory Committee on Transportation (JPACT). Such substitution requires public notice, EQC approval and concurrence from EPA, but does not require a revision to the State Implementation Plan. See appendix D1-17 for the TCM substitution requirements.

The TCMs included in the maintenance plan are:

Non-funding based Transportation Control Measures

1. Metro 2040 Growth Concept

Metro's 2040 Growth Concept is included because it changes typical growth patterns to be less reliant on motor vehicle travel, thereby reducing motor vehicle emissions. Two elements of the land use plan (the Interim Measures and the Urban Growth Boundary) provide appropriate implementation mechanisms to meet FCAA enforceability requirements for control strategies.

a. Metro Interim Land Use Measures relating to:

- Requirements for Accommodation of Growth;
- Regional Parking Policy; and
- Retail in Employment and Industrial Areas.

The text of the interim land-use measures is included in Appendix D1-17.

b. Urban Growth Boundary.

The Urban Growth Boundary (UGB) as currently adopted or amended before EPA approval of the maintenance plan, assuming an amendment does not significantly affect the air quality plan's transportation emission projections.

2. DEQ Employee Commute Options Program

A 10% trip reduction target is required for employers who employ more than 50 employees at the same work site. See discussion above and Appendix D1-13.

3. DEQ Voluntary Parking Ratio Program

Implement a voluntary parking ratio program providing incentives to solicit participation, including exemption from the Employee Commute Options program. See discussion above and Appendix D1-14.

Funding based Transportation Control Measures

1. Increased Transit Service

- a. Regional increase in transit service hours averaging 1.5% annually.

This commitment includes an average annual capacity increase in the Central City area equal to the regional capacity increase. The level of transit capacity increase is based on the regional employment growth projections adopted by Metro Council on Dec. 21, 1995. These projections assume that the Central City will maintain its current share of the regional employment. Should less employment growth occur in the Region and/or the Central City, transit service increase may be reduced proportionately.

- b. Completion of the Westside Light Rail Transit facility.
- c. Completion of Light Rail Transit (LRT) in the South/North corridor by the year 2007.

2. Bicycle and Pedestrian Facilities

- a. Multimodal facilities.

Consistent with ORS 366.514¹, all major roadway expansion or reconstruction projects on an arterial or major collector shall include pedestrian and bicycle improvements where such facilities do not currently exist. Pedestrian improvements are defined as sidewalks on both sides of the street. Bicycle improvements are defined as bikeways within the Metro boundary and shoulders outside the Metro boundary but within the Air Quality Maintenance Area.

¹ This provides for the following exceptions:

- absence of any need;
- contrary to public safety; and
- excessively disproportionate cost.

b. RTP Constrained Bicycle System.

In addition to the multimodal facilities commitment, the region will add at least a total of 28 miles of bicycle lanes, shoulder bikeways or multi-use trails to the Regional Bicycle System as defined in the Financially Constrained Network of Metro's Interim Federal RTP (adopted July 1995) by the year 2006. Reasonable progress toward implementation means a minimum of five miles of new bike lanes, shoulder bikeways or multi-use trails shall be funded in each two-year Transportation Improvement Program (TIP) funding cycle.

Bike lanes are striped lanes dedicated for bicycle travel on curbed streets, a width of five to six feet is preferred; four feet is acceptable in rare circumstances. Use by autos is prohibited. Shoulder bikeways are five to six foot shoulders for bicycle travel and emergency parking. Multi-use trails are eight to 12 foot paths separate from the roadway and open to non-motorized users.

c. Pedestrian facilities.

In addition to the multimodal facilities commitment, the region will add at least a total of nine miles of major pedestrian upgrades in the following areas, as defined by Metro's Region 2040 Growth Concept: Central City/Regional Centers, Town Centers, Corridors & Station Communities, and Main Streets. Reasonable progress toward implementation means a minimum of one and a half miles of major pedestrian upgrades in these areas shall be funded in each two-year TIP funding cycle.

4.50.3.2.3.2 NON-ROAD ENGINE STRATEGIES

Credit is included in the plan for recent EPA emission standards for new non-road engines. These standards affect new small non-road spark ignition engines (such as lawn and garden equipment), heavy duty compression ignition engines (such as diesel construction equipment) and outboard/inboard marine engines. The standards phase in beginning in model year 1996. See Appendix D1-4-3 for an explanation of the emission reductions expected from EPA's non-road engine standards.

4.50.3.2.3.3 AREA SOURCE STRATEGIES

In 1995, EQC adopted rules to reduce VOC emissions from a variety of area sources, including:

- Motor Vehicle Refinishing;
- Architectural Coatings;
- Consumer Products (such as aerosol sprays, air fresheners and windshield washer fluids); and
- Spray Paints

The rules require manufacturers to meet VOC content limitations, and include some user requirements.

The maintenance plan also relies on emission reductions from stage II vapor recovery at gasoline service stations. The EQC adopted stage II vapor recovery rules in 1991. These rules, along with the new area source rules, are being submitted as a revision to the Oregon SIP concurrently with the maintenance plan.

Appendix D1-11 includes a description of the area source rules and a calculation of the emission reductions expected from the rules for motor vehicle refinishing, architectural coatings, consumer products and spray paints. See also Appendix D1-4-3.

4.50.3.2.3.4 INDUSTRIAL EMISSION STRATEGIES

Industrial PSEL Management Program

DEQ established a voluntary program for donation of unused Plant Site Emission Limits (PSELs). Incentives to participate were offered to businesses that held large amounts of unused PSEL, including exemption from the ECO program, priority permit processing, and priority use of the industrial growth allowance. Significant permanent reductions in PSELs were achieved by the program. In addition, a number of sources made temporary donations of PSEL to enable DEQ to demonstrate maintenance during the interim years of the plan while other emission reduction strategies are phasing-in.

See Appendix D1-15 for a description of the industrial PSEL management program. See Appendix D1-4-3 for a tabulation of donated PSEL and a comparison of forecast actual emissions to PSEL emissions after permanent and temporary donations.

Major New Source Review

Until the Portland/Vancouver AQMA is redesignated to attainment, proposed major sources and major modifications to existing sources are required to comply with nonattainment area New Source Review (NSR), including Lowest Achievable Emission Rate (LAER) control technology and offsets for VOC and NO_x. The offset ratio applicable to a marginal ozone nonattainment area is 1.1 to 1 (i.e., 1.1 tons per year reduction for each proposed 1.0 ton per year increase).

After redesignation to attainment, the LAER requirement will be replaced by Best Available Control Technology (BACT), and a growth allowance will be provided for use in meeting the offset requirement. The owner or operator of a proposed major source or major modification may apply to DEQ for an allocation of the growth allowance in lieu of providing an offset. DEQ will allocate the growth allowance on a first-come/first-served basis, until the growth allowance is fully allocated. In the event that DEQ receives two complete requests for an allocation of the growth allowance at the same time, sources that donated unused PSEL will receive priority. No applicant may be awarded more than 50% of the remaining growth allowance or 10 tons per year, whichever is greater, unless an exception is approved by the EQC on a case-by-case basis.

The growth allowances for VOC and NO_x were originally derived based on 1% per year growth in industrial emissions. The VOC growth allowance was reduced somewhat from 1997 through 2003 because the full growth allowance could not be accommodated in the maintenance demonstration. The growth allowance for each year is listed in Table 4.50.3.4. See also Appendix D1-4-3.

To make the growth allowance "pool" last as long as possible, sources will be encouraged to provide offsets, if possible, for all or part of the proposed increase. Once the growth allowance is fully allocated, offsets for all proposed major sources and major modifications will be required. The offset ratio of 1.1 to 1 will remain in effect.

Table 4.50.3.4: Cumulative Industrial Growth Allowance

	1997 to 1999	2000 to 2001	2002 to 2003	2004 to 2006
VOC				
Lbs/day	1,624	2,259	4,075	8,121
Ton/Year	211	294	530	1056

	1997 to 1999	2000 to 2001	2002 to 2003	2004 to 2006
NO _x				
Lbs/day	1,115	1,837	2,450	3,368
Tons/year	145	239	318	438

Note: Cumulative growth allowance listed for each period. Tons/year based on an average 5 day per week operating schedule.

During the life of the maintenance plan, DEQ will attempt to increase the growth allowance by utilizing new federally enforceable emission reductions or shutdown credits that were not relied upon in the maintenance demonstration. In particular, the growth allowance will be increased upon revision of the transportation emissions budgets to reflect emission reductions from EPA's gasoline detergent additive program (see Section 4.50.3.3.3). Any such increases in the growth allowance will be subject to approval by EPA Region 10. Federally enforceable emission reductions include requirements adopted by EPA, requirements adopted by EQC and approved by EPA as a revision to the Oregon SIP, and requirements established by a federally enforceable permit condition. DEQ may also temporarily or permanently reduce the growth allowance, if necessary, to prevent emissions from exceeding the maintenance emission level.

DEQ will prepare a thorough accounting of any activity in the growth allowance program for each period identified in Table 4.50.3.4, including any allocations to sources and any increases in the growth allowance. This information will be reported to EPA within 12 months following the end of the reporting period. If there were any increases to the growth allowance since the last report, DEQ will include a clear discussion of how each increase to the growth allowance is based on a surplus and federally enforceable emission reduction. See also commitments in Section 4.50.4.3 "Maintenance Plan Commitments".

If a violation of the ozone standard occurs after the Portland/Vancouver AQMA has been redesignated to attainment, the LAER and offset requirement will be reimposed, and any remaining growth allowance will be eliminated (see Section 4.50.3.3 "Contingency Plan").

New Source Review program changes are further described in Appendix D1-16.

Reasonably Available Control Technology (RACT)

Industrial emissions were reduced significantly under the original attainment plan by installation of Reasonably Available Control Technology (RACT) at existing major sources. These RACT requirements remain in place under the maintenance plan. In addition, the maintenance plan relies on emission reductions from RACT updates required by the 1990 Clean Air Act Amendments. This includes source-specific RACT requirements for two surface coating operations, a solvent metal cleaning operation, and a mineral products firm. The plan also assumes emission reductions from RACT requirements for several industrial source categories, including aerospace component coating operations and barge loading operations at gasoline terminals. A planned gasoline pipeline is expected to provide emission reductions equivalent to barge loading RACT. Appendix D1-4-3 presents the emission reductions from the source-specific RACT standards and the gasoline pipeline.

4.50.3.2.3.5 PUBLIC EDUCATION AND INCENTIVE PROGRAM

An intensive and long term public education and incentive program is included to achieve additional emission reductions and to help implement other programs in the maintenance plan. DEQ, along with private sector partners, will encourage the public to choose consumer products that emit fewer VOCs, reduce motor vehicle trips, use electric and hand gardening tools, and curtail polluting activities such as lawn mowing on ozone conducive days. Advertising, discounts and other incentives will be used to achieve measurable emission reductions. DEQ will quantify the emission reduction achieved after a 3-year pilot program. If the emission reduction achieved is less than the target, DEQ will implement a backup plan.

See appendix D1-12 for a description of the Public Education and Incentive Program and the Voluntary Lawn and Garden Equipment Curtailment Program.

4.50.3.2.4 Transportation Emissions Budgets for Conformity

The federal and state transportation conformity regulations require that projected emissions resulting from implementation of the Regional Transportation Plan (RTP) and Transportation Improvement Program (TIP) are consistent with the SIP.

Before EQC approval of the maintenance plan, there were two emissions tests for RTPs and TIPs. The first test was a comparison of the proposed RTP and TIP (or "action scenarios") to the existing situation (or "baseline scenario"). This test, often referred to as the "build/no-build" test, ensures that the emissions from the action scenario are less than emissions from the baseline scenario. The second test was a comparison of action scenario to transportation emissions in 1990.

Westside Full-Funding Grant Agreement

ATTACHMENT 10

SPECIAL CONDITIONS: LAND USE AND TRANSPORTATION PLANNING

The Government and the Grantee recognize that the success of the extension of the Westside Light Rail Project to Hillsboro (hereafter, the "Hillsboro extension") will depend, in large measure, on local implementation and enforcement of long-term urban containment policies that lead to transit-supportive land use patterns in the Westside-Hillsboro corridor. Accordingly:

1. The Grantee acknowledges that the Government's provision of Federal financial assistance to the Hillsboro extension is specifically conditioned upon the enactment of the current version of the Region 2040 Concept Plan by the Metropolitan Service District ("Metro"), the cognizant Metropolitan Planning Organization for the Portland, Oregon metropolitan area.
2. The Grantee agrees and promises to take any and all actions, within its powers, as may be reasonable and necessary to ensure local adoption of the detailed Region 2040 Framework Plan (the "Framework Plan"); to ensure that all cognizant local governments in the vicinity of the Hillsboro extension continue to comply with the Framework Plan; and to ensure that the Framework Plan is maintained, without any substantial changes in transit station areas that would adversely affect transit ridership, for a period of no less than five years following completion of the Hillsboro extension, now estimated for September 1998.
3. The Grantee agrees and promises to take any and all actions, within its powers, as may be reasonable and necessary to ensure local adoption of amendments to the comprehensive plans and implementing ordinances of all cognizant jurisdictions in the vicinity of the Hillsboro extension that are consistent with the Framework Plan and Oregon law.
4. The Grantee agrees and promises to take any and all actions, within its powers, as may be reasonable and necessary to ensure local adoption of policies that are consistent with the State Transportation Planning Rule, as currently enacted (the Planning Rule), and specifically, the provisions of the Planning Rule that are intended to limit growth in per capita Vehicle Miles of Travel.

Endangered Species Act

Feds say fish-friendly buffer a must for North Macadam development

Portland wants to minimize the mandate's impact to maximize housing and jobs in the prime area south of downtown

By **SCOTT LEARN**
THE OREGONIAN

12-6-
00

Federal officials have served their first notice on how they plan to enforce the Endangered Species Act in the Portland area. Their message: We're gonna be tough.

City brass on Tuesday received a letter from the National Marine Fisheries Service commenting on Portland's plans to cram housing and jobs into the 130-acre North Macadam urban renewal district, the city's last large undeveloped parcel

along the Willamette River.

To protect threatened salmon and steelhead, the city had planned to require an average of 100-foot setbacks along the Willamette, a figure that already has Portland Development Commission officials and property owners fretting about lost development potential.

Double it, the fisheries service said.

Standards should vary by location and key off potential tree height in each area, the service's letter said. But "a substantial body of research and experience is accumulating to show that a 200-foot corridor is near the minimum desirable for restoration and maintenance of fish and wildlife habitats."

The letter's wording leaves some wiggle room. It requests 200-foot buffers "wherever possible," a term that city offi-

cials seized on.

Rob Jones, the service's area coordinator for salmon recovery, said the service is eager to work with the city if it can come up with alternatives that provide the same fish protection as a 200-foot buffer.

"What we're basically telling them is, 'The burden is on you, based on the science of what will work here,'" Jones said. "In the past, these kinds of decisions were made without full consideration for what the science told us."

That rationale likely will apply along rivers and streams throughout the region, city officials said, although potential tree height and related buffer widths could differ. A Republican president's administration could be less strict. But city officials noted that environmental-

Please see **RIVER**, Page E12

River: Portland hopes fisheries agency is flexible

Continued from Page E1

ists would be quick to sue if the city does less than the science calls for.

Top city officials learned of the nine-page letter late Tuesday afternoon and quickly gathered to pore over it. Jim Middaugh, the city's species act coordinator, said the service is pushing the city to do more than it wants to.

But Middaugh said he thinks the service will be flexible. The city can develop a comprehensive plan for the river that satisfies the service, protects fish and allows North Macadam development to go forward with achievable buffers, Middaugh said.

City officials plan to take a more comprehensive plan to the fisheries service by March.

"We need to go back and sharpen our pencils," Middaugh said. "They've set a high bar. But we can do it."

Mayor Vera Katz, Planning Director Gil Kelley and Fred Wearn, the development commission's North Macadam project manager, were more anxious.

North Macadam — polluted, largely vacant and pinned between the river and Interstate 5 south of the Marquam Bridge — is prized by politicians and planners as a relatively painless spot to accommodate growth and provide for the expansion of Oregon Health Sciences University, the city's largest employer.

Plans call for borrowing against an expected \$150 million of addi-

tional property tax revenues in the district in the next 20 years, then using the loan proceeds to pay for roads, a streetcar, parks and other projects.

The public construction would help property owners, including some of the wealthiest families in Portland, develop their lots, with

the plan calling for as many as 3,000 homes and 10,000 jobs.

But the plan depends on development going forward to generate more property taxes, Wearn said, and that's a shaky proposition in an area with loose soil, industrial pollution and high construction costs.

Last year, development commission officials said a 150-foot buffer would chop 20 percent of the housing and jobs planned for North Macadam. A 200-foot buffer could cut far more because the additional 50 feet are scheduled for intense development, they said.

"Right now the district is mar-

ginally feasible," Wearn said. "And that's based on the existing economics and regulations."

♦

You can reach Scott Learn at 503-221-8564 or by e-mail at scotlearn@news.oregonian.com.



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December 5, 2000



BY FACSIMILE AND FIRST CLASS MAIL

Metro Council
Metro Executive
600 NE Grand Ave.
Portland, OR 97232

Dear Council Members, Executive, and Staff:

As we are all painfully aware, the passage of Measure 7 poses significant challenges for all local governing bodies within the state. You and your staff are faced with the difficult task of implementing the measure in a manner that limits damage to the region's environment and quality of life while at the same time limiting severe damage to your financial status and capability to fund essential services. We do not envy your position.

A. Claims Receipt, Processing & Publicity

In response to Measure 7, many cities and counties are rapidly adopting ordinances to establish procedural requirements for the submission of a claim under Measure 7. We understand Metro is also doing this. We strongly support those efforts. The measure itself does not set forth a specific process for the submission and review of such claims, and the need for clearly established procedural requirements is obvious.

Claims processing ordinances should provide for filing claims that include the following information:

- Name and address of the claimants
- The amount of compensation requested
- A description (and if possible, citation) of the local and/or state laws giving rise to the claim
- The date the claimant became the owner of the property

Claims processing procedures should provide for public notice and hearings on the claims. In particular, any claims that may be satisfied by waivers of or variances from zoning or other regulations should be heard only after notice to all property owners, the value of whose property would be reduced if the waiver or variance were granted.

B. Purported Waivers

We are concerned however, that some local governments are including "waiver" provisions that purport to give to the governing body the substantive authority to waive the regulation that is the

subject of the claim, even if that regulation is required by state law, administrative rule or Goal. Furthermore, to presume that the voters intended to repeal, fully or selectively, state and local land use regulations is unwarranted. Those laws and rules were not on the ballot. All we know for sure is what they adopted: a measure requiring compensation. Cities, counties, special districts and regional governments do not have the authority under Measure 7 or any other law or Constitutional provision to waive, repeal or override state laws and state rules.

The Director of the Department of Land Conservation and Development has also expressed concern over "the adoption by cities and counties of ordinances that authorize waiver of land use regulations in order to avoid compensation claims." See his December 1, 2000 Memorandum on Measure 7 to the Land Conservation and Development Commission, a copy of which is attached.

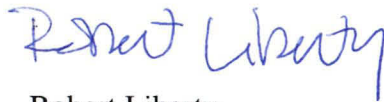
It may be possible, as an alternative to adopting a broad waiver provision, to craft a legally defensible "variance" mechanism for purely local regulatory and zoning requirements so long as the adoption of such a mechanism follows proper procedural requirements such as notice, public hearings, opportunity to seek judicial review, etc. A variance provision that amends the manner in which land use regulations are applied would be subject to the post-acknowledgment process of ORS 197.610-626. But, once again, local jurisdictions cannot legally grant a variance to state requirements.

Our Board has authorized our Staff Attorneys to appeal any ordinances that purport to waive, or could be construed as waiving, state land use laws, goals or rules, directly or indirectly.

Please ensure that this letter is made part of the record for any process that leads to the adoption of any ordinance dealing with the implementation of Measure 7 in your jurisdiction. Also, I request to receive Notice of any such proposed ordinances and of the Public Hearings or Meetings at which those proposed ordinances are to be considered.

Thank you in advance for your kind attention to this letter. We recognize the challenges that confront you and would like, to the greatest extent possible, to be supportive of your efforts.

Sincerely,



Robert Liberty
Executive Director
1000 Friends of Oregon

cc: Dan Cooper
Richard Benner, Director, DLCD



Oregon

John A. Kitzhaber, M.D., Governor

Department of Land Conservation and Development

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Web Address: <http://www.lcd.state.or.us>

December 1, 2000

MEMORANDUM



TO: Land Conservation and Development Commission
FROM: Richard P. Benner, Director *RPB*
SUBJ: Measure 7

The passage of Measure 7 presents many significant issues to the statewide planning program. Because so much of the measure is ambiguous, it is difficult to understand its full implications. The Governor has asked the Attorney General to explain the measure. An opinion from the Attorney General is expected very soon. I expect the opinion will offer guidance on many questions. I will make certain you receive a copy as soon as possible. In the meantime, I am able to offer the following information.

Effect on Existing Law: Measure 7 did not repeal land use or environmental laws, rules or local plans or land use regulations. All these laws continue to apply as they did before passage of the measure. (See 11/15/00 memorandum from Don Arnold, Chief Counsel, General Counsel Division, Oregon Department of Justice, attached).

Enforcement of Existing Law: Because existing laws remain in effect, including laws that direct the agency to enforce the state's land use laws (ORS 197.090, 197.319, 197.636), the agency must continue to enforce those laws. The earliest and most significant enforcement problem likely to confront the agency is the adoption by cities and counties of ordinances that authorize waiver of land use regulations in order to avoid compensation claims. These ordinances may violate state land use laws to the extent the authorize waiver of land use regulations that derive from those laws.

Existing Programs – Periodic Review: Many cities and counties (over 100) are working on periodic review. Each has a work program with a number of work tasks. Some work tasks call cities and counties to adopt or amend plans or land use regulations. Arguably, some of these adoptions or amendments would reduce the value of some affected properties. Of course, cities and counties will be reluctant to take these actions. Nonetheless, state statutes on periodic review require them to take these actions so long as state planning law requires them.

Existing Programs – Grants: Some periodic review and technical assistance grants have conditions that require, and offer grant assistance for, adoption of amendments to local land use regulations. Some of these amendments may reduce the value of some affected properties. If local governments decide not to adopt the amendments, the department will have to renegotiate the grant agreements.

Rulemaking: The department advises the commission not adopt or amend rules that may be interpreted to reduce property values for the following reasons: (1) to avoid exposing local governments or the state to compensation claims; and (2) to avoid exposing existing rules and ordinances to claims by a new set of property owners who acquired property after the effective dates of the original rules.

Compensation Claims: The Department of Land Conservation and Development (DLCD) does not currently have authority to accept or process claims for compensation (See 11/15/00 memorandum from Don Arnold, Chief Counsel, General Counsel Division, Oregon Department of Justice, attached). At the time the agency does have such authority, it will need such a process. The Department of Justice will advise agencies a claims procedures.

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AMENDING)	
THE REGIONAL FRAMEWORK PLAN)	
ORDINANCE NO. 97-715B REGARDING)	ORDINANCE NO 00-882A
HOUSING AND AFFORDABLE)	
HOUSING INCLUDING POLICY)	
SECTION 1.3 AND AMENDMENTS TO)	
THE URBAN GROWTH MANAGEMENT)	Introduced by Councilor Washington
FUNCTIONAL PLAN TITLES 7 AND 8,)	
ORDINANCE NO. 96-647C.)	

WHEREAS, The Metro Council adopted the Urban Growth Management Functional Plan in Ordinance 96-647C, including Titles 7 regarding Affordable Housing and Title 8 regarding definitions, which recommended changes to city and county policies related to affordable housing; and

WHEREAS, The Metro Council adopted the Regional Framework Plan in Ordinance 97-715B, including section 1.3 Housing and Affordable Housing, which established policies related to housing and affordable housing; and

WHEREAS, The Metro Council adopted Ordinance 98-769, on September 10, 1998, amending the Regional Framework Plan, including amended section 1.3 regarding housing and affordable housing which authorized creation of the Affordable Housing Technical Advisory Committee ("HTAC"), and provided for confirming the appointment of members, as codified in Metro Code 3.08; and

WHEREAS, the Metro Code 3.08.030 states that HTAC shall report to the Metro Council with a recommendation for the adoption of the Regional Affordable Housing Strategy Plan; and

WHEREAS, the HTAC recommendation was first submitted to MPAC as a preliminary recommendation for review and comment consistent with Metro Code 3.08.040; and

WHEREAS, HTAC met from September of 1998 to June 2000 to implement Policy 1.3 by developing the affordable housing production goals and implementation strategies described in the *Regional Affordable Housing Strategies* ("RAHS"); and

WHEREAS, HTAC created and utilized subcommittees (Fair Share, Cost Reduction, Land Use and Regulatory, Regional Funding and Outreach Subcommittee) meeting regularly, from October 1998 to March 2000, to develop the affordable housing productions goals, implementation strategies described in the RAHS and develop public involvement strategies; and

WHEREAS, the Fair Share Subcommittee analyzed housing data, estimated the Benchmark Need for affordable housing to 2017 and recommended options for a regional five-year affordable housing production goals; and

WHEREAS, the Land Use & Regulatory Subcommittee developed land use strategy reports and recommendations based on factual information for seven strategies and tools included in the RAHS; and

WHEREAS, the Cost Reduction Subcommittee developed non-land use strategy reports and recommendations based on factual information for nine strategies and tools included in the RAHS; and

WHEREAS, the Regional Funding Subcommittee developed a regional funding strategy report and recommendations based on factual information for strategies and tools for maximizing existing resources and strategies and tools for new funding sources; and

WHEREAS, HTAC reviewed, revised and recommended by motions the estimated affordable housing need and production goals and all the draft strategy reports prepared by the Fair Share Subcommittee, Cost Reduction Subcommittee, Land Use & Regulatory Subcommittee and Regional Funding Subcommittee, and used them to develop the RAHS consistent with the Regional Framework Plan requirements; and

WHEREAS, HTAC presented its draft work products to MPAC on February 24, 1999, June 9, 1999, December 8, 1999, April 26, 2000 and May 10, 2000 and received MPAC comments; and

WHEREAS, HTAC presented its draft work products to the Metro Council on April 27, 1999, June 8, 1999, December 7, 1999, December 16, 1999, March 28, 2000, and April 13, 2000 and received Metro Council comments; and

WHEREAS, HTAC held three focus groups to gather technical comments on the strategies, and convened four community round table discussions around the region to provide opportunity for citizen comments; and

WHEREAS, HTAC revised the its work products to address concerns voiced at the focus groups meetings and community round table discussions; and

WHEREAS, HTAC submitted its preliminary recommendations to MPAC for review and comment consistent with Metro Code 3.08.040; and

WHEREAS, HTAC conducted a public hearing on its preliminary recommendations prior to submitting them to the Metro Council consistent with Metro Code 3.08.040; and

WHEREAS, HTAC revised the RAHS at its May 8 and 22 and June 12, 2000 meetings to address concerns voiced at the public hearing, MPAC and Metro Council meetings; and

WHEREAS, HTAC at its June 12, 2000 meeting reached a decision to forward its final recommendations in the form of the June 2000 Regional Affordable Housing Strategy ("RAHS") to the Metro Council which includes changes to the Regional Framework Policy 1.3 and requirements for changes to city and county comprehensive plans; and

WHEREAS, HTAC has fulfilled Metro Code requirements to implement Policy 1.3 by recommending the Regional Affordable Housing Strategy to the Metro Council; now, therefore,

THE METRO COUNCIL ORDAINS AS FOLLOWS:

1. Section 1.3, Housing and Affordable Housing of the Regional Framework Plan as adopted by the Metro Council in Ordinance No. 97-715B and amended on September 10, 1998, is hereby amended as set forth in Exhibit "A" attached and incorporated herein.
2. Title 7, entitled "Affordable Housing" of the Urban Growth Management Functional plan and Title 8, entitled "Definitions" as adopted by the Metro Council by Ordinance No. 96-671C on November 21, 1996, and incorporated into the Regional Framework Plan by Ordinance No. 97-715B, are hereby amended as set forth in Exhibit "B" attached and incorporated herein.
3. The Findings of Fact and Conclusions of Law in Exhibit "C" demonstrate that the amendments to the Regional Framework Plan and the Urban Growth Management Functional Plan in Exhibits "A" and "B" comply with applicable statewide goals and objectives.

4. The Regional Framework Plan Housing and Affordable Housing policy and Affordable Housing implementation as amended in Exhibits "A" and "B" of this ordinance shall be transmitted to the Land Conservation and Development Commission to be considered together as the Affordable Housing component of the Regional Framework Plan. By this transmittal Metro shall request initial acknowledgment of this Regional Framework Plan component for compliance with the statewide planning goals consistent with ORS 197.274(1)(a).

ADOPTED by the Metro Council this ____ day of _____ 2000.

David Bragdon, Presiding Officer

ATTEST:

Approved as to Form:

Recording Secretary

Daniel B. Cooper, General Counsel

**Exhibit "A" of
Ordinance No. 00-882A**

**AMENDED HOUSING AND AFFORDABLE HOUSING POLICY
IN THE METRO'S REGIONAL FRAMEWORK PLAN**

1.3 Affordable Housing

1.3.1. Purpose

The Metro Council, with the advice and consultation of the Metro Policy Advisory Committee (MPAC), determined that affordable housing is a growth management and land use planning matter of metropolitan concern and will benefit from regional planning. Metro will develop Affordable Housing Production Goals as part of a Regional Affordable Housing Strategy for meeting the housing needs of the urban population in cities and counties in the Metro region.

The purpose of this section 1.3 of the Regional Framework Plan is to address the need for a regional affordable housing strategy, in order to achieve provide affordable housing opportunities throughout the region. This purpose will be achieved through:

- a diverse range of housing types available within the region and within the cities and counties inside Metro's urban growth boundary ;
- sufficient and affordable housing opportunities available to households of all income levels that live or have a member working in each jurisdiction and subregion;
- An appropriate balance of jobs and housing of all types within subregions.
- Addressing current and future need for and supply of affordable housing in the process used to determine affordable housing production goals;
- Minimizing any concentration of poverty.

1.3.2 Background

In December 1997, the Metro Council adopted the Regional Framework Plan (Ordinance No. 97.715B) including policies related to housing and affordable housing. An appeal to the Oregon Land Use Board of Appeal (LUBA) challenged the validity of the Housing and Affordable Housing policies. Subsequent mediation resulted in the agreement that the Metro Council should adopt a revised Section 1.3.

In September 1998, the Metro Council amended Section 1.3 of the Regional Framework Plan (Ordinance No. 98.769), and added a chapter to the Metro Code (3.07) creating an Affordable Housing Technical Advisory Committee. The Affordable Housing Technical Advisory Committee (H-TAC) was constituted with 28 representatives from local governments, nonprofit and for-profit developers, the business and financial community, affordable housing advocates,

and representatives from the Governor's Commission on Aging, Oregon Housing and Community Services Department, and the U.S. Department of Housing and Urban Development.

H-TAC developed a series of recommendations in a report (Regional Affordable Housing Strategy, RAHS) including suggestions for affordable housing production goals for the region and each jurisdiction, and land use tools and strategies to be considered by local governments to be adopted in the Urban Growth Management Functional Plan. The RAHS also contains other strategies and tools to attain the affordable housing production goals as well as suggested amendments to the Urban Growth Management Functional Plan concerning comprehensive plans and zoning regulations. After consultation with MPAC and public hearing, the RAHS was presented to the Metro Council on June 22, 2000. The Metro Council accepted the RAHS from H-TAC (Resolution No. 00-2956B). The RAHS is not a regulatory document. This Section 1.3 of the Regional Framework Plan adopts the current Metro policies for affordable housing based on consideration of all available information, particularly the RAHS.

1.3.3. Approach

The policies in this Regional Framework Plan were developed through a process that:

- a. Defined affordable housing as housing costing no more than 30 percent of a household's income;
- b. Based on this definition and household groups in most need of affordable housing, the estimated total amount of needed affordable housing was for about 90,000 additional affordable units for the period 1997-2017 for households with incomes at or below 50 percent of the median household income;
- c. Determined that a productive approach would be to establish voluntary affordable housing production goals for each jurisdiction in the region
- d. Established a set of five-year voluntary affordable housing goals for all jurisdictions based on a production goal for the region that represents 10% of the total need or about 9,000 units;
- e. Developed land use and non-land use affordable housing tools and strategies that could be used to achieve the goals;
- f. Crafted a set of policies that would increase affordable housing for consideration by local governments;
- g. Designed a reporting schedule to monitor local governments' progress;
- h. Created a set of actions for Metro to address in order to coordinate and encourage an increase in the supply of affordable housing in the region.

1.3.4. Affordable Housing Need

The Metro Council adopted a Housing Needs Analysis Report in December 1997 that was the preliminary factual basis for the determination that there was a need for a Regional Affordable Housing Strategy. This analysis was updated in the year 2000 and the need for affordable housing was reaffirmed and found consistent with the 1997 analysis. The RAHS contains the most current estimates of total need or "benchmark need" for affordable Housing. The benchmark need was based on providing affordable housing for all low and moderate income households so that they pay no more than 30 percent of their income on housing costs. For renters "housing

costs” includes rent and utilities. For homeowners, it includes principle, interest, taxes, property insurance, and if applicable, mortgage insurance.

Sometimes the region suffers from a misunderstanding of who needs affordable housing. The shortage of housing affects a wide variety of residents in our region – particularly families or households earning 50% (\$26,850 in 2000) or less of the region’s current annual median household income. Examples of households that fall into this category include case manager at a nonprofit public defender’s office, special education teacher, cashier for a department store, dental assistant, school bus driver, hair dresser, pharmacy assistant and many retired persons.

Estimation of the benchmark need for affordable housing was also based on Metro’s 20-year planning horizon, and takes into consideration Metro’s 2017 household projection, regional distribution of households in four income groups (less than 30%, 31-50%, 51-80%, 81-120%), and existing jurisdictional proportions of affordable housing supply to the four income groups.

The RAHS estimates that if all households with incomes at or below 50% of median household incomes paid no more than 30% of their income for housing, there will be a need for about 90,000 additional affordable housing units in the region for the period 1997-2017 including those poorly-housed.

1.3.5. Affordable Housing Production Goals

Recognizing the limited resources available to address the total need, ~~an acceptable level that the region could implement was based on actual affordable housing production levels for the period 2001 to 2006~~ for affordable housing, efforts were made to develop a realistic production goal that could be implemented in the region. Setting production goals took into consideration past (1992 to 1997) annual average production rate for rental units for households earning 80% of median household income and less, the estimated cost of meeting the goals, and the current resources available in the region. In addition, the expectation is that local governments and other entities will consider implementing available affordable housing tools and strategies, including those in the RAHS.

The region’s total affordable housing production goal should be based on a five-year affordable housing production goal equivalent to 10% of the 20 year benchmark need. The focus of this goal is households earning 50% or less of median household income. This initial goal is established with the understanding that a new regional funding source or other financial resources are necessary to attain this goal. Progress towards this initial goal will be assessed as described in Section 1.3.6.B. using local data and the 2000 U.S Census data.

The region’s affordable housing production goal for local governments shall be expressed as voluntary affordable housing production goals for each city and county in the region. An affordable housing distribution method should be established in the Urban Growth Management Functional Plan that sets voluntary goals for each jurisdiction to encourage working towards a similar distribution of household incomes within each Metro jurisdiction that reflects the regional income distribution as a whole (see Appendix K: Description of Process for Determining the Benchmark Need for Affordable Housing). ~~Local jurisdictions should~~ adopt the voluntary affordable housing production goals established by Urban Growth Management Functional Plan to serve as a guide

to measure progress toward meeting the affordable housing needs of households with incomes between 0% and 50% of median household income.

Local jurisdictions are encouraged to continue their efforts to promote housing affordable to households with incomes 50% to 80% and 80% to 120% of median household income. The voluntary affordable housing production goals in the Urban Growth Management Functional Plan will serve as a guide to measure progress toward meeting the affordable housing needs of the region.

1.3.6. Increasing and Preserving the Supply of Affordable Housing

A wide variety of measures will be needed in order to achieve the purposes of the regional affordable housing strategy. Metro's legal authority to require cities and counties to amend their comprehensive plans and implementing ordinances is only one of the mechanisms that may be used.

Some land use planning tools will be helpful if used in comprehensive plan amendments to encourage the development and retention of some types of affordable housing. However, land use planning requirements may have limited effect in encouraging some types of affordable housing. Non-land use tools that are not suitable for inclusion in the Functional Plan or in local comprehensive land use plans can encourage the development and retention of some types of affordable housing. These non-land use tools can be designed and implemented by voluntary, cooperative efforts. Metro has additional powers, including financing authority, that may be used. Other governmental agencies and non-profit entities will need to be partners in achieving the goals of the RAHS. Special district service providers, public housing agencies, urban renewal agencies and others will play significant roles.

The H-TAC addressed and recommended in the RAHS Land use planning strategies and tools together with other non-land use tools and strategies that are needed to attain the affordable housing production goals. The H-TAC also recommended in the RAHS those organizations that could take the lead in the development and implementation of these non-land use tools and strategies.

1.3.6.A. Metro Actions

In order to address the region's affordable housing challenges, Metro ~~may~~will consider the following actions:

- a. Develop a best practices handbook; hold forums and explore other methods of increasing affordable housing as noted in the RAHS.
- b. Assist local governments in setting up a regional administrative infrastructure for the administration of a regional housing fund as available.
- c. Consider voluntary inclusionary housing requirements when amending the Urban Growth Boundary
- d. Consider the cost of providing infrastructure to land within the urban growth boundary when expanding the boundary.
- e. Consider using a cost/benefit analysis to determine the impact of new regulations on local housing activities related to housing production.
- f. Address storm-water detention/runoff on a watershed basis so as to reduce the cost impact of on site storm water detention requirement.
- g. Consider affordable housing when developing regional natural resource protection programs.
- h. Review it's goals for consistency in its overall regional planning policies and their impact on local planning and zoning activities.
- ~~i. Consider "voluntary inclusionary housing" requirements when amending the Urban Growth Boundary.~~
- ~~j.i.~~ j.i. Provide a legal opinion on Metro's authority on the implementation of system development charges, permit fees, and off-site improvement strategies.
- ~~k.j.~~ k.j. Include consideration of job wage levels to the cost of housing in a jurisdiction or subregion when conducting an analysis of jobs/housing balance.
- ~~l.k.~~ l.k. Implement land use policies in the context of other regional policies in this Regional Framework Plan designed to create livable communities, by supporting the regional transportation system, town centers and corridors, and helping to create a jobs housing balance.
- ~~m.l.~~ m.l. In 2003, use local information and the 2000 U.S. Census data to analyze and update the region's affordable housing needs, and conduct a periodic survey to determine which strategies are working and not working, including why a strategy might work well in one place and not others.
- ~~n.m.~~ n.m. Create, when appropriate an RAHS Implementation Committee to advise Metro and help to review the effectiveness of the strategies and appropriateness of the regional affordable housing production goals. If necessary, the Committee could recommend changes to both the strategies and the affordable housing production goals. The RAHS Implementation Committee shall seek and provide advice and consultation from the MPAC. The structure and composition of the Committee, method of appointment of Committee members,

minimum number of times the Committee shall meet, and timelines for the Committee to report on the matters assigned to it shall be specified by Metro.

1.3.6.B. Local Jurisdictions' Action

Cities and counties within the region should:

- a. Adopt the affordable housing production goals in Table 1 to serve as a guide to measure progress toward meeting the affordable housing needs of households with incomes between 0% and 50% of median household income.
- b. Consider adding to their comprehensive plans land use policies that increase affordable housing. These could include Density Bonus, Replacement Housing, Inclusionary Housing, Transfer of Development Rights, Housing for Elderly and People with Disabilities, Local Regulatory Constraints -Discrepancies in Planning and Zoning Codes and Local Permitting/Approval Process, and Parking.
- c. Consider implementing non-land use tools and strategies listed in Chapter 4 of the RAHS, including fee waivers or other funding incentives.
- d. Report progress towards increasing the supply of affordable housing 12, 24, and 36 months from the adoption of affordable housing functional plan amendments.

1.3.7. Funding for Affordable Housing

Funding for affordable housing has been an issue for many years. Historically the federal government has provided a substantial portion of funds for the provision of affordable housing. However, long term federal commitments for lower income housing are declining, introducing uncertainties for tenants, owners, communities and lenders. Based on this uncertainty and H-TAC's estimates of the additional subsidy needed to meet the region's affordable housing production goals, the need to create a housing fund available regionwide that to leverage other affordable housing resources can not be overemphasized.

If the region is to be successful in increasing the amount of affordable housing, a housing fund would need the support of a wide range of interests including local governments, the state and business groups. Work to create such funding should be initiated as soon as possible.

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Appendix K Regional Framework Plan

Description of Process for Determining the Benchmark Need for Affordable Housing

[((Number of Households in Jurisdiction in 2017)(Percent of Regional Households in Each Income Group))-(Credit for Assisted Units in Jurisdiction) - (Number of Market Rate Affordable Units in Jurisdiction)]] = Benchmark Need for each Jurisdiction*

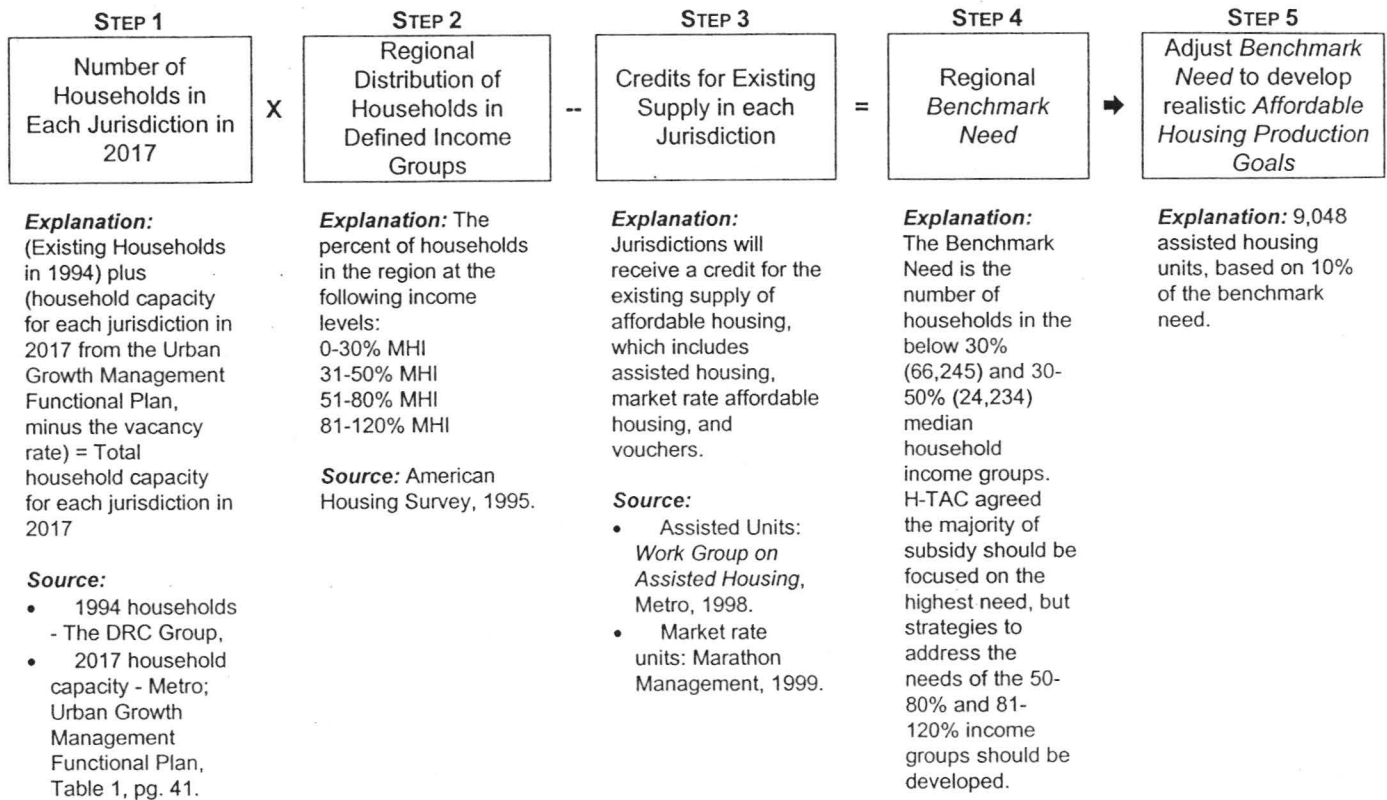


Exhibit "B" of
Ordinance No. 00-882A

**Amended Title 7 in the
Urban Growth Management Functional Plan**

TITLE 7: AFFORDABLE HOUSING

3.07.710 Intent

The Regional Framework Plan stated the need to provide affordable housing opportunities through: a) a diverse range of housing types, available within the region, and within cities and counties inside Metro's urban growth boundary; b) sufficient and affordable housing opportunities available to households of all income levels that live or have a member working in each jurisdiction and subregion; c) an appropriate balance of jobs and housing of all types within subregions; d) addressing current and future need for and supply of affordable housing in the process used to determine affordable housing production goals; and e) minimizing any concentration of poverty. The Regional Framework Plan ~~requires the region and local jurisdictions to adopt~~ directs that Metro's Urban Growth Management Functional Plan include voluntary -affordable housing production goals to be adopted by local jurisdictions in the region as well as , implement land use and non-land use affordable housing tools and land strategies., The Regional Framework Plan also directs that Metro's Urban Growth Management Functional Plan include and local governments' reporting progress towards increasing the supply of affordable housing.

Title 1 of this functional plan requires cities and counties to change their zoning to accommodate development at higher densities in locations supportive of the transportation system. Increasing allowable densities and requiring minimum densities encourage compact communities, more efficient use of land and should result in additional affordable housing opportunities. These Title 1 requirements are parts of the regional affordable housing strategy.

Ordinance No. 97-715B, Sec. 1.)

3.07.720 Voluntary Affordable Housing Production Goals

Each city and county within the Metro region ~~shall~~ should ~~amend~~ adopt their comprehensive plans to include the Affordable Housing Production Goal indicated in Table 3.07-7 for their city or county as a guide to measure progress toward meeting the affordable housing needs of households with incomes between 0% and 50% median household income in their jurisdiction.

Table 3.07-7
Five-Year Voluntary Affordable Housing Production Goals

Jurisdiction	2001-2006 Affordable Housing Production Goals		
	<i>Needed new housing units for households earning less than 30% of median household income</i>	<i>Needed new housing units for households earning 30-50% of median household income</i>	<i>Total</i>
Beaverton	427	229	656
Cornelius	40	10	50
Durham	6	4	10
Fairview	42	31	73
Forest Grove	55	10	65
Gladstone	43	10	53
Gresham	454	102	556
Happy Valley	29	28	57
Hillsboro	302	211	513
Johnson City	0	0	0
King City	5	0	5
Lake Oswego	185	154	339
Maywood Park	0	0	0
Milwaukie	102	0	102
Oregon City	123	35	158
Portland	1,791	0	1,791
Rivergrove	1	1	2
Sherwood	67	56	123
Tigard	216	103	319
Troutdale	75	56	131
Tualatin	120	69	189
West Linn	98	71	169
Wilsonville	100	80	180
Wood Village	16	1	17
Clackamas County, Urban, Unincorporated	729	374	1,103
Multnomah County, Urban, Unincorporated	81	53	134
Washington County, Urban Unincorporated	1,312	940	2,252
Total	6,419	2,628	9,047

3.07.730 Requirements for Comprehensive Plan and Implementing Ordinance Changes

A. Cities and counties within the Metro region shall:

1. Amend their comprehensive plans to include strategies to ensure a diverse range of housing types within their jurisdictional boundaries.
2. Include in their plans actions and implementation measures designed to maintain the existing supply of affordable housing as well as increase the opportunities for new dispersed affordable housing within their boundaries.
3. Develop plan policies, actions, and implementation measures aimed at increasing opportunities for households of all income levels to live within their individual jurisdictions in affordable housing.

B. Cities and counties within the Metro region shall consider amendment of their comprehensive plans and implementing ordinances with the following affordable housing land use tools and strategies:

1. Density Bonus

A density bonus is an incentive to facilitate the development of affordable housing. Local jurisdictions could consider tying the amount of bonus to the targeted income group to encourage the development of affordable units to meet affordable housing production goals.

2. Replacement Housing

No-Net-Loss housing policies for local jurisdictional review of requested quasi-judicial Comprehensive Plan Map amendments with approval criteria that would require the replacement of existing housing that would be lost through the Plan Map amendment.

3. Inclusionary Housing

- a) Implement voluntary inclusionary housing programs tied to the provision of incentives such as Density Bonus incentives to facilitate the development of affordable housing.
- b) Develop housing design requirements for housing components such as single-car garages and maximum square footage that tend to result in affordable housing.
- c) Consider impacts on affordable housing as a criterion for any legislative or quasi-judicial zone change.

4. Transfer of Development Rights

- a) Implement TDR programs tailored to the specific conditions of a local jurisdiction
- b) Implement TDR programs in Main Street or Town Center areas that involve upzoning

5. Elderly and People with Disabilities

Examine zoning codes for conflicts in meeting locational needs of these populations

6. Local Regulatory Constraints; Discrepancies in Planning and Zoning Codes; Local Permitting or Approval Process

- a) Revise the permitting process (conditional use permits, etc.)
- b) Review development and design standards for impact on affordable housing
- c) Consider using a cost/benefit analysis to determine impact of new regulations on housing production
- d) Regularly review existing codes for usefulness and conflicts
- e) Reduce number of land use appeal opportunities
- f) Allow fast tracking of affordable housing

7. Parking

- a) Review parking requirements to ensure they meet the needs of residents of all types of housing
- b) Coordinate strategies with developers, transportation planners and other regional efforts so as to reduce the cost of providing parking in affordable housing developments

C. The "requirement to consider" means local governments shall report what actions were taken or not taken, including but not limited to the seven land use tools listed above in order to carry out Comprehensive Plan affordable housing policies, and also report on tools considered but not adopted, and why these tools were not adopted.

3.07.740 Requirements for Progress Report

Progress made by local jurisdictions in amending comprehensive plans and consideration of land use related affordable housing tools and strategies to meet the ~~towards meeting~~ voluntary ~~production~~ affordable housing production goals shall be reported according to the following schedule:

- A. Within 12 months from the adoption of this requirement, cities and counties within the Metro region shall submit a brief status report to Metro as to what items they have considered and which items remain to be considered. This analysis could include identification of affordable housing land use tools currently in use as well as consideration of the land use tools in Table ~~XX~~3.07-7.
- B. Within 24 months from the adoption of this requirement, cities and counties within the Metro region shall provide a report to Metro on the status of their comprehensive plans amendments and adoption of land use-related affordable housing tools.
- C. Within 36 months from the adoption of this requirement, cities and counties within the Metro region shall report to Metro on the amendments to their comprehensive plans, the outcomes of affordable housing tools and implemented, and any other affordable housing developed and expected.

3.07.750 Metro Assessment of Progress

- A. Metro Council and MPAC shall review progress reports submitted by cities and counties and may provide comments to the jurisdictions.
- B. Metro Council shall, in 2003:
 - 1. Formally assess the region's progress toward achieving the affordable housing production goals in Table 3.07-7 using 2000 U.S. Census data and local data;
 - 2. Review and assess affordable housing tools and strategies implemented by local jurisdictions;
 - 3. Examine federal and state legislative changes;
 - 4. Review the availability of a regional funding source; and
 - 5. Re-analyze affordable housing need and decide whether any changes are warranted to the process, tools and strategies, funding plans or goals to ensure that significant progress is made toward providing affordable housing for those most in need.

3.07.760 Recommendations to Implement Other Affordable Housing Strategies

- A. Local jurisdictions are encouraged to consider implementation of the following affordable housing land use tools to increase

the inventory of affordable housing throughout the region." Additional information on these strategies and other land use strategies that could be considered by local jurisdictions are described in Chapter Four of the Regional Affordable Housing Strategy and its Appendixes.

1. Replacement Housing

Consider policies to prevent the loss of affordable housing through demolition in urban renewal areas by implementing a replacement housing ordinance specific to urban renewal zones

2. Inclusionary Housing

When creating urban renewal districts that include housing, include voluntary inclusionary housing requirements where appropriate

- B. Local jurisdictions are encouraged to analyze, adopt and apply locally-appropriate non-land use tools, including fee waivers or funding incentives as a means to make progress toward the Affordable Housing Production Goal. Non-land use tools and strategies that could be considered by local jurisdictions are described in Chapter Four of the Regional Affordable Housing Strategy and its Appendixes. Cities and Counties are also encouraged to report on the analysis, adoption and application of non-land use tools at the same intervals that they are reporting on land-use tools (in section 3.07.740)
- C. Local jurisdictions are also encouraged to continue their efforts to promote housing affordable to other households with incomes 50% to 80% and 80% to 120% of the regional median household income.
- D. Local jurisdictions are encouraged to consider joint coordination or action to meet their combined affordable housing production goals.

Amended Title 8 in the Urban Growth Management Functional Plan

TITLE 8: COMPLIANCE PROCEDURES

3.07.810 Compliance Required

A.1 All cities and counties within the Metro boundary are hereby required to amend their comprehensive plans and implementing ordinances to comply with the provisions of this functional plan within twenty-four months of the effective date of this ordinance ~~and to comply with the regional affordable housing land use requirements in Title 7 no later than 24 months after their adoption.~~ Metro recommends the adoption of the policies that affect land consumption as soon as possible.

A.2 All cities and counties within the Metro boundary are hereby required to amend their comprehensive plans and implementing ordinances to comply with the regional affordable housing land use requirements in Title 7 no later than 24 months after their adoption.

B. Notwithstanding subsection A of this section, cities and counties are required to amend their comprehensive plans and implementing ordinances to comply with sections 3.07.310-.340 of Title 3 within 18 months after the Metro Council has adopted the Model Ordinance and Water Quality and Flood Management Areas Map.

(Ordinance No. 97-715B, Sec. 1. Amended by Ordinance No. 98-730C, Sec. 4.)

3.07.820 Compliance Procedures

A. On or before six months prior to the 24 month deadline established in section 3.07.810(A.1), cities and counties shall transmit to Metro the following:

1. An evaluation of their local plans, including public facility capacities and the amendments necessary to comply with this functional plan;

2. Copies of all applicable comprehensive plans and implementing ordinances and public facility plans, as proposed to be amended;
3. Findings that explain how the amended city and county comprehensive plans will achieve the standards required in Titles 1 through 6 of this functional plan.

In developing the evaluation, plan and ordinance amendments and findings, cities and counties shall address the Metro 2040 Growth Concept, and explain how the proposed amendments implement the Growth Concept.

- B. Exceptions to any of the requirements in the above titles may be granted by the Metro Council, as provided for in the Regional Urban Growth Goals and Objectives, Section 5.3, after MPAC review. Requests for an exception should include a city or county submittal as specified in this section. The Metro Council will make all final decisions for the grant of any requested exception .

1. Population and Capacity. An exception to the requirement contained in Table 3.07-1 of Title 1 that the target capacities shall be met or exceeded may be granted based on a submittal which includes, but is not limited to, the following:
 - a. A demonstration of substantial evidence of the economic infeasibility to provide sanitary sewer, water, stormwater or transportation facilities to an area or areas; or
 - b. A demonstration that the city or county is unable to meet the target capacities listed in Table 3.07-1 because substantial areas have prior commitments to development at densities inconsistent with Metro target; or
 - c. A demonstration that the dwelling unit and job capacities cannot be accommodated at densities or locations the market or assisted programs will likely build during the planning period.

As part of any request for exception under this subsection, a city or county shall also submit an estimate of the amount of dwelling units or jobs

included in the capacity listed in Table 3.07-1 that cannot be accommodated; and a recommendation which identifies land that would provide for the unaccommodated capacity located outside the urban growth boundary and near or adjacent to the city or county.

In reviewing any request for exception based on the financial feasibility of providing public services, Metro, along with cities and counties, shall estimate the cost of providing necessary public services and compare those with the estimated costs submitted by the city or county requesting the exemption.

2. Parking Measures. Subject to the provisions of Title 2, cities or counties may request an exception to parking requirements. Metro may consider a city or county government request to allow areas designated as Zone A to be subject to Zone B requirements upon the city or county establishing that, for the area in question:
 - a. There are no existing plans to provide transit service with 20-minute or lower peak frequencies; and
 - b. There are no adjacent neighborhoods close enough to generate sufficient pedestrian activity; and
 - c. There are no significant pedestrian activity within the present business district; and
 - d. That it will be feasible for the excess parking to be converted to the development of housing, commerce or industry in the future.

The burden of proof for a variance shall increase based on the quality and timing of transit service. The existence of transit service or plans for the provision of transit service near a 20-minute or lower peak frequency shall establish a higher burden to establish the need for the exception.

3. Water Quality and Flood Management Areas. Cities and counties may request areas to be added or deleted from the Metro Water Quality and Flood Management Area Map based on a finding that the area identified on the map

is not a Water Quality and Flood Management Area or a Fish and Wildlife Habitat Conservation Area, as defined in this functional plan. Areas may also be deleted from the map if the city or county can prove that its deletion and the cumulative impact of all deletions in its jurisdiction will have minimal impact on the water quality of the stream and on flood effects. Findings shall be supported by evidence, including the results of field investigations.

4. Retail in Employment and Industrial Areas. Subject to the provisions of Title 4, cities and counties may request a change in the Employment and Industrial Areas Map. Metro may consider a city or county request to modify an Employment Area to exempt existing or locally designated retail areas, unacknowledged by the date of this Functional Plan, where they can demonstrate that
 - a. The Employment and Industrial Areas Map included lands within Employment Areas having a substantially developed existing retail area or a locally designated retail area pursuant to a comprehensive plan acknowledged by the date of this Functional Plan which allowed retail uses larger than 60,000 square feet of gross leasable area per building or business; or
 - b. The requested retail area in an Employment Area has been found to be appropriate for an exception based upon current or projected needs within the jurisdiction and the city or county can demonstrate that adequate transportation facilities capacity exists for that retail area.
5. Regional Accessibility. Cities or counties may request an exception to the requirements of Title 6, Regional Accessibility, where they can show that a street system or connection is not feasible for reasons of topographic constraints or natural or built environment considerations.

- C. The Metro Council may grant an extension to time lines under this functional plan if the city or county has demonstrated substantial progress or proof of good cause for failing to complete the requirements on time. Requests for extensions of the compliance requirement in section

3.07.810 of this title should accompany the compliance transmittal required in section 3.07.820(A) of this title.

- D. In addition to the above demonstrations, any city or county request or determination that functional plan policies should not or cannot be incorporated into comprehensive plans shall be subject to the conflict resolution and mediation processes included within the RUGGO, Goal I, provisions prior to the final adoption of inconsistent policies or actions. Final land use decisions of cities and counties inconsistent with functional plan requirements are subject to immediate appeal for violation of the functional plan.
- E. Compliance with requirements of this plan shall be substantial compliance which shall not require cities or counties to violate federal or state law, including state-wide land use goals. Conflicting interpretations of legal requirements may be the subject of a compliance interpretation and conflict resolution under RUGGO Objective 5.3.
- F. On or before six months prior to the 18 month deadline established in section 3.07.810(B), cities and counties shall schedule their first hearing on the ordinance to implement sections 3.07.310-.340 of Title 3, or a hearing on implementation of Title 3, if no code amendments are proposed to comply with Title 3, and transmit notice of that hearing and a copy of the proposed ordinance to Metro at least 30 days prior to the hearing.
 - 1. Metro shall prepare and mail a notice of the city or county hearing to each affected property owner.
 - 2. The Metro notice shall include the date, time, location and the title and number of any local ordinance; an explanation of the general requirements of Title 3, and an explanation of the implementation in the local ordinance, if no code amendments are proposed to comply with Title 3.
 - 3. Metro shall review any amendments to Title 3 proposed by cities and counties based on the testimony of property owners.
- G. On or before six months prior to the 18 month deadline established in section 3.07.810(B), cities and counties shall transmit to Metro the following:

1. An evaluation of their local plans, including any relevant existing regulations and the amendments necessary to comply with Title 3 of this functional plan;
2. Copies of all applicable comprehensive plans, maps and implementing ordinances as proposed to be amended;
3. Findings that explain how the amended city and county comprehensive plans, maps and implementing ordinances will achieve the standards required in Title 3 of this functional plan.

In developing the evaluation, plan and ordinance amendments and findings, cities and counties shall address the Metro 2040 Growth Concept, and explain how the proposed amendments implement the Growth Concept.

(Ordinance No. 97-715B, Sec. 1. Amended by Ordinance No. 98-730C, Secs. 5, 6, 7; Ordinance No. 98-727C, Sec. 1.)

3.07.830 Any Comprehensive Plan Change Must Comply

- A. After February 19, 1997, any amendment of a comprehensive plan or implementing ordinance shall be consistent with the requirements of this functional plan.
- B. In addition to any transmittal required by section 3.07.820 of this title, in the process of amending any comprehensive plan provision or implementing ordinance, a city or county shall give notice to Metro as required herein. At the same time any notice is given to the director of the Department of Land Conservation and Development pursuant to ORS 197.610 or 197.615, a copy shall be sent to Metro's Executive Officer. In addition to the content of the notice required by ORS 197.610 or 197.615, the notice furnished to Metro should include an analysis demonstrating that the proposed amendments are consistent with this functional plan, if available. If the analysis demonstrating consistency with the functional plan is not included in the initial notice, a report containing the analysis shall be delivered to Metro no later than fourteen (14) days before the city or county conducts a final hearing on the proposed amendment.

- C. If no notice of intent to appeal is filed within the 21-day period set out in ORS 197.830(8), an amendment to a city or county comprehensive plan or land use regulation to implement this functional plan shall be deemed to be in compliance with this functional plan. If the city or county amendment is appealed pursuant to ORS 197.830 to 197.855 and is ultimately affirmed on appeal, the amendment shall be deemed to be in compliance with the functional plan upon the date that the appellate decision becomes final. This functional plan shall not apply to land use decisions made in conformance with city or county comprehensive plans or land use regulations deemed in compliance with this functional plan pursuant to this subsection.
- D. An amendment to a city or county comprehensive plan or land use regulation shall not be deemed in compliance with this functional plan as provided in subsection C of this section unless notice has been given to Metro as provided in subsection B of this section.

(Ordinance No. 97-715B, Sec. 1. Amended by Ordinance No. 98-727C, Sec. 2.)

3.07.840 Compliance Plan Assistance

- A. Any city or county may request of Metro a compliance plan which contains the following:
1. An analysis of the city or county comprehensive plan and implementing ordinances, and what sections require change to comply with the performance standards.
 2. Specific amendments that would bring the city or county into compliance with the requirements of Titles 1 to 8, if necessary.
- B. Cities and counties must make the request within four months of the effective date of this ordinance. The request shall be signed by the highest elected official of the jurisdiction.
- C. Metro shall deliver a compliance plan within four months of the request date. The compliance plan shall be a recommendation from the Executive Officer. The compliance plan shall be filed with the Metro Council two weeks before it is transmitted, for possible review and comment.

(Ordinance No. 97-715B, Sec. 1.)

3.07.850 Citizen Involvement Process

- A. Any citizen may contact Metro staff or the Metro Executive Officer or appear before the Metro Council to raise issues regarding local functional plan compliance, to request Metro participation in the local process, or to request the Metro Council appeal a local enactment for which notice is required to be given to Metro pursuant to section 3.07.830 of Title 8. Such contact may be either oral or in writing and may be made at any time during or at the conclusion of any city or county proceeding to amend a comprehensive plan or implementing ordinance for which notice is required to be given to Metro pursuant to section 3.07.830 of Title 8. All such requests to participate or appeal made in writing shall be forwarded to the Metro Council.
- B. In addition to considering requests as described in (A) above, the Metro Council shall at every regularly scheduled Council meeting provide an opportunity for citizens to address the Council on any matter related to this functional plan.
- C. Cities, counties and Metro shall comply with their own adopted and acknowledged Citizen Involvement Requirements (Citizen Involvement) in all decisions, determinations and actions taken to implement and comply with this functional plan. The Executive Officer shall at least annually publish and distribute a Citizen Involvement fact sheet after consultation with the Metro Committee for Citizen Involvement, that fully describes all opportunities for citizen involvement in Metro's Regional Growth Management Process as well as the implementation and enforcement of this functional plan.

(Ordinance No. 97-715B, Sec. 1.)

3.07.860 Enforcement

- A. Prior to a final decision to amend a comprehensive plan or implementing ordinance, a city or county determination that a requirement of this functional plan should not or cannot be implemented may be subject to a compliance interpretation and the conflict resolution process provided for in RUGGO, Goal I at the request of the city or county.

- B. City or county actions to amend a comprehensive plan or implementing ordinance in violation of this functional plan at any time after the effective date of this ordinance shall be subject to appeal or other legal action for violation of a regional functional plan requirement, including but not limited to reduction of regional transportation funding and funding priorities.
- C. Failure to amend comprehensive plans and implementing ordinances as required by section 3.07.810 of this title shall be subject to any and all enforcement actions authorized by law.

(Ordinance No. 97-715B, Sec. 1.)



METRO

120700c-17

TO: Presiding Officer David Bragdon and Metro Council members
FROM: Andrew C. Cotugno, Director, Transportation and Growth Management Departments
DATE: December 7, 2000
SUBJECT: Ordinance 00-882A

Background

In 1998, The Metro Council adopted revisions to the Regional Framework Plan that required a regional housing strategy be produced. During 1999 and 2000 the Metro Council appointed Affordable Housing Technical Advisory Committee (H-TAC) met and completed a draft Regional Affordable Housing Strategy (RAHS). On June, 22, the Metro Council adopted Resolution 00-2956B, accepting the RAHS and directing Metro staff to prepare Regional Framework Plan and Urban Growth Management Functional Plan changes consistent with the RAHS for Metro Council consideration.

Attached is Ordinance 00-882A (attachment A), as recommended by the Metro Growth Management Committee after its consideration of the staff report, written comments received, public testimony heard December 5 and Growth Management Committee deliberations.

Also attached is the comments and Metro staff responses document (attachment B). This amended document now includes all comments received and considered by the Growth Management Committee (Comments 1 - 19), as well as MTAC comments and recommendations discussed yesterday (Comments 20-22).

Analysis

The Metro Technical Advisory Committee (MTAC) met yesterday and completed its review of the draft ordinance. In their review they included:

- a) revised section 1.3.6.B to clarify recommendations and requirements of local governments;
- b) the desire to flag the subregional references in 1.3.6B, including the concern that jobs/housing balance should apply to mixed use design types and jurisdictions, not just subregions and that at the subregional level it was as yet, undefined. (see comment #21);
- c) the interest in seeing more definition of what "required to consider" means as it relates to local government consideration of affordable housing tools. That is, how much effort would local governments need to document good faith efforts. Metro staff have recommended local governments make this call. (see comment #22).

Proposed change "a" appears to be consistent with the language and intent of the RAHS.

Recommendation

Staff recommends that the Metro Council consider adoption of draft Ordinance 00-882A, with the further revisions recommended by MTAC as described in the Comment & Response #20.

cc: Mike Burton, Executive Officer

the impact of the measure. We are awaiting an opinion from the State Attorney General that will hopefully provide substantial guidance. In the meantime, in talking with our Office of General Counsel, it is our understanding that of the seven tools that cities and counties would be required to consider, 5 would likely have no Measure 7 impact, while the other two could be adopted, so long as cities and counties take adequate precautions both to follow current State law as well as comply with the provisions of Measure 7. More specifically, we believe the potential Measure 7 impacts are as follows:

Density Bonus - this tool would simply allow more development potential for a property. No Measure 7 impact.

Replacement Housing - this tool would have to be carefully constructed in order to comply with Measure 7.

Inclusionary Housing - items a (voluntary inclusionary zoning) and c ("consider impacts on affordable housing as a criterion for ...zone changes") are not considered to have a Measure 7 impact. Item b (housing design requirements) would have to be carefully constructed in order to comply with Measure 7.

Transfer of Development Rights - this tool provides a means of ensuring development rights. No Measure 7 impact.

Elderly and People with Disabilities - this tool would provide a means of allowing consideration of fewer regulations for the elderly and people with disabilities. No Measure 7 impact.

Local Regulatory Restraints - this tool would help ensure that regulations are kept to a minimum. No Measure 7 impact.

Parking - as with other tools listed above, this tool would help ensure regulations are only those specifically needed. No Measure 7 impact.

Our General Counsel will be at your meeting should you wish to delve into this issue further.

Recommendation

Staff recommends that MPAC consider adoption of draft Ordinance 00-882A, with the further revisions recommended by MTAC as described in the Comments & Responses #20.

cc: Mike Burton, Executive Officer
David Bragdon, Presiding Officer

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AMENDING)
THE REGIONAL FRAMEWORK PLAN)
ORDINANCE NO. 97-715B REGARDING) ORDINANCE NO 00-882A
HOUSING AND AFFORDABLE)
HOUSING INCLUDING POLICY)
SECTION 1.3 AND AMENDMENTS TO)
THE URBAN GROWTH MANAGEMENT) Introduced by Councilor Washington
FUNCTIONAL PLAN TITLES 7 AND 8,)
ORDINANCE NO. 96-647C.)

WHEREAS, The Metro Council adopted the Urban Growth Management Functional Plan in Ordinance 96-647C, including Titles 7 regarding Affordable Housing and Title 8 regarding definitions, which recommended changes to city and county policies related to affordable housing; and

WHEREAS, The Metro Council adopted the Regional Framework Plan in Ordinance 97-715B, including section 1.3 Housing and Affordable Housing, which established policies related to housing and affordable housing; and

WHEREAS, The Metro Council adopted Ordinance 98-769, on September 10, 1998, amending the Regional Framework Plan, including amended section 1.3 regarding housing and affordable housing which authorized creation of the Affordable Housing Technical Advisory Committee ("HTAC"), and provided for confirming the appointment of members, as codified in Metro Code 3.08; and

WHEREAS, the Metro Code 3.08.030 states that HTAC shall report to the Metro Council with a recommendation for the adoption of the Regional Affordable Housing Strategy Plan; and

WHEREAS, the HTAC recommendation was first submitted to MPAC as a preliminary recommendation for review and comment consistent with Metro Code 3.08.040; and

WHEREAS, HTAC met from September of 1998 to June 2000 to implement Policy 1.3 by developing the affordable housing production goals and implementation strategies described in the *Regional Affordable Housing Strategies* ("RAHS"); and

WHEREAS, HTAC created and utilized subcommittees (Fair Share, Cost Reduction, Land Use and Regulatory, Regional Funding and Outreach Subcommittee) meeting regularly, from October 1998 to March 2000, to develop the affordable housing productions goals, implementation strategies described in the RAHS and develop public involvement strategies; and

WHEREAS, the Fair Share Subcommittee analyzed housing data, estimated the Benchmark Need for affordable housing to 2017 and recommended options for a regional five-year affordable housing production goals; and

WHEREAS, the Land Use & Regulatory Subcommittee developed land use strategy reports and recommendations based on factual information for seven strategies and tools included in the RAHS; and

WHEREAS, the Cost Reduction Subcommittee developed non-land use strategy reports and recommendations based on factual information for nine strategies and tools included in the RAHS; and

WHEREAS, the Regional Funding Subcommittee developed a regional funding strategy report and recommendations based on factual information for strategies and tools for maximizing existing resources and strategies and tools for new funding sources; and

WHEREAS, HTAC reviewed, revised and recommended by motions the estimated affordable housing need and production goals and all the draft strategy reports prepared by the Fair Share Subcommittee, Cost Reduction Subcommittee, Land Use & Regulatory Subcommittee and Regional Funding Subcommittee, and used them to develop the RAHS consistent with the Regional Framework Plan requirements; and

WHEREAS, HTAC presented its draft work products to MPAC on February 24, 1999, June 9, 1999, December 8, 1999, April 26, 2000 and May 10, 2000 and received MPAC comments; and

WHEREAS, HTAC presented its draft work products to the Metro Council on April 27, 1999, June 8, 1999, December 7, 1999, December 16, 1999, March 28, 2000, and April 13, 2000 and received Metro Council comments; and

WHEREAS, HTAC held three focus groups to gather technical comments on the strategies, and convened four community round table discussions around the region to provide opportunity for citizen comments; and

WHEREAS, HTAC revised the its work products to address concerns voiced at the focus groups meetings and community round table discussions; and

WHEREAS, HTAC submitted its preliminary recommendations to MPAC for review and comment consistent with Metro Code 3.08.040; and

WHEREAS, HTAC conducted a public hearing on its preliminary recommendations prior to submitting them to the Metro Council consistent with Metro Code 3.08.040; and

WHEREAS, HTAC revised the RAHS at its May 8 and 22 and June 12, 2000 meetings to address concerns voiced at the public hearing, MPAC and Metro Council meetings; and

WHEREAS, HTAC at its June 12, 2000 meeting reached a decision to forward its final recommendations in the form of the June 2000 Regional Affordable Housing Strategy ("RAHS") to the Metro Council which includes changes to the Regional Framework Policy 1.3 and requirements for changes to city and county comprehensive plans; and

WHEREAS, HTAC has fulfilled Metro Code requirements to implement Policy 1.3 by recommending the Regional Affordable Housing Strategy to the Metro Council; now, therefore,

THE METRO COUNCIL ORDAINS AS FOLLOWS:

1. Section 1.3, Housing and Affordable Housing of the Regional Framework Plan as adopted by the Metro Council in Ordinance No. 97-715B and amended on September 10, 1998, is hereby amended as set forth in Exhibit "A" attached and incorporated herein.
2. Title 7, entitled "Affordable Housing" of the Urban Growth Management Functional plan and Title 8, entitled "Definitions" as adopted by the Metro Council by Ordinance No. 96-671C on November 21, 1996, and incorporated into the Regional Framework Plan by Ordinance No. 97-715B, are hereby amended as set forth in Exhibit "B" attached and incorporated herein.
3. The Findings of Fact and Conclusions of Law in Exhibit "C" demonstrate that the amendments to the Regional Framework Plan and the Urban Growth Management Functional Plan in Exhibits "A" and "B" comply with applicable statewide goals and objectives.

4. The Regional Framework Plan Housing and Affordable Housing policy and Affordable Housing implementation as amended in Exhibits "A" and "B" of this ordinance shall be transmitted to the Land Conservation and Development Commission to be considered together as the Affordable Housing component of the Regional Framework Plan. By this transmittal Metro shall request initial acknowledgment of this Regional Framework Plan component for compliance with the statewide planning goals consistent with ORS 197.274(1)(a).

ADOPTED by the Metro Council this ____ day of _____ 2000.

David Bragdon, Presiding Officer

ATTEST:

Approved as to Form:

Recording Secretary

Daniel B. Cooper, General Counsel

**Exhibit "A" of
Ordinance No. 00-882A**

**AMENDED HOUSING AND AFFORDABLE HOUSING POLICY
IN THE METRO'S REGIONAL FRAMEWORK PLAN**

1.3 Affordable Housing

1.3.1. Purpose

The Metro Council, with the advice and consultation of the Metro Policy Advisory Committee (MPAC), determined that affordable housing is a growth management and land use planning matter of metropolitan concern and will benefit from regional planning. Metro will develop Affordable Housing Production Goals as part of a Regional Affordable Housing Strategy for meeting the housing needs of the urban population in cities and counties in the Metro region.

The purpose of this section 1.3 of the Regional Framework Plan is to address the need for a regional affordable housing strategy, in order to achieve provide affordable housing opportunities throughout the region. This purpose will be achieved through:

- a diverse range of housing types available within the region and within the cities and counties inside Metro's urban growth boundary ;
- sufficient and affordable housing opportunities available to households of all income levels that live or have a member working in each jurisdiction and subregion;
- An appropriate balance of jobs and housing of all types within subregions.
- Addressing current and future need for and supply of affordable housing in the process used to determine affordable housing production goals;
- Minimizing any concentration of poverty.

1.3.2 Background

In December 1997, the Metro Council adopted the Regional Framework Plan (Ordinance No. 97.715B) including policies related to housing and affordable housing. An appeal to the Oregon Land Use Board of Appeal (LUBA) challenged the validity of the Housing and Affordable Housing policies. Subsequent mediation resulted in the agreement that the Metro Council should adopt a revised Section 1.3.

In September 1998, the Metro Council amended Section 1.3 of the Regional Framework Plan (Ordinance No. 98.769), and added a chapter to the Metro Code (3.07) creating an Affordable Housing Technical Advisory Committee. The Affordable Housing Technical Advisory Committee (H-TAC) was constituted with 28 representatives from local governments, nonprofit and for-profit developers, the business and financial community, affordable housing advocates,

and representatives from the Governor's Commission on Aging, Oregon Housing and Community Services Department, and the U.S. Department of Housing and Urban Development.

H-TAC developed a series of recommendations in a report (Regional Affordable Housing Strategy, RAHS) including suggestions for affordable housing production goals for the region and each jurisdiction, and land use tools and strategies to be considered by local governments to be adopted in the Urban Growth Management Functional Plan. The RAHS also contains other strategies and tools to attain the affordable housing production goals as well as suggested amendments to the Urban Growth Management Functional Plan concerning comprehensive plans and zoning regulations. After consultation with MPAC and public hearing, the RAHS was presented to the Metro Council on June 22, 2000. The Metro Council accepted the RAHS from H-TAC (Resolution No. 00-2956B). The RAHS is not a regulatory document. This Section 1.3 of the Regional Framework Plan adopts the current Metro policies for affordable housing based on consideration of all available information, particularly the RAHS.

1.3.3. Approach

The policies in this Regional Framework Plan were developed through a process that:

- a. Defined affordable housing as housing costing no more than 30 percent of a household's income;
- b. Based on this definition and household groups in most need of affordable housing, the estimated total amount of needed affordable housing was for about 90,000 additional affordable units for the period 1997-2017 for households with incomes at or below 50 percent of the median household income;
- c. Determined that a productive approach would be to establish voluntary affordable housing production goals for each jurisdiction in the region
- d. Established a set of five-year voluntary affordable housing goals for all jurisdictions based on a production goal for the region that represents 10% of the total need or about 9,000 units;
- e. Developed land use and non-land use affordable housing tools and strategies that could be used to achieve the goals;
- f. Crafted a set of policies that would increase affordable housing for consideration by local governments;
- g. Designed a reporting schedule to monitor local governments' progress;
- h. Created a set of actions for Metro to address in order to coordinate and encourage an increase in the supply of affordable housing in the region.

1.3.4. Affordable Housing Need

The Metro Council adopted a Housing Needs Analysis Report in December 1997 that was the preliminary factual basis for the determination that there was a need for a Regional Affordable Housing Strategy. This analysis was updated in the year 2000 and the need for affordable housing was reaffirmed and found consistent with the 1997 analysis. The RAHS contains the most current estimates of total need or "benchmark need" for affordable Housing. The benchmark need was based on providing affordable housing for all low and moderate income households so that they pay no more than 30 percent of their income on housing costs. For renters "housing

costs” includes rent and utilities. For homeowners, it includes principle, interest, taxes, property insurance, and if applicable, mortgage insurance.

Sometimes the region suffers from a misunderstanding of who needs affordable housing. The shortage of housing affects a wide variety of residents in our region – particularly families or households earning 50% (\$26,850 in 2000) or less of the region’s current annual median household income. Examples of households that fall into this category include case manager at a nonprofit public defender’s office, special education teacher, cashier for a department store, dental assistant, school bus driver, hair dresser, pharmacy assistant and many retired persons.

Estimation of the benchmark need for affordable housing was also based on Metro’s 20-year planning horizon, and takes into consideration Metro’s 2017 household projection, regional distribution of households in four income groups (less than 30%, 31-50%, 51-80%, 81-120%), and existing jurisdictional proportions of affordable housing supply to the four income groups.

The RAHS estimates that if all households with incomes at or below 50% of median household incomes paid no more than 30% of their income for housing, there will be a need for about 90,000 additional affordable housing units in the region for the period 1997-2017 including those poorly-housed.

1.3.5. Affordable Housing Production Goals

Recognizing the limited resources available to address the total need, ~~an acceptable level that the region could implement was based on actual affordable housing production levels for the period 2001 to 2006 for affordable housing, efforts were made to develop a realistic production goal that could be implemented in the region.~~ Setting production goals took into consideration past (1992 to 1997) annual average production rate for rental units for households earning 80% of median household income and less, the estimated cost of meeting the goals, and the current resources available in the region. In addition, the expectation is that local governments and other entities will consider implementing available affordable housing tools and strategies, including those in the RAHS.

The region’s total affordable housing production goal should be based on a five-year affordable housing production goal equivalent to 10% of the 20 year benchmark need. The focus of this goal is households earning 50% or less of median household income. This initial goal is established with the understanding that a new regional funding source or other financial resources are necessary to attain this goal. Progress towards this initial goal will be assessed as described in Section 1.3.6.B. using local data and the 2000 U.S Census data.

The region’s affordable housing production goal for local governments shall be expressed as voluntary affordable housing production goals for each city and county in the region. An affordable housing distribution method should be established in the Urban Growth Management Functional Plan that sets voluntary goals for each jurisdiction to encourage working towards a similar distribution of household incomes within each Metro jurisdiction that reflects the regional income distribution as a whole (see Appendix K: Description of Process for Determining the Benchmark Need for Affordable Housing). ~~Local jurisdictions should~~ adopt the voluntary affordable housing production goals established by Urban Growth Management Functional Plan to serve as a guide

to measure progress toward meeting the affordable housing needs of households with incomes between 0% and 50% of median household income.

Local jurisdictions are encouraged to continue their efforts to promote housing affordable to households with incomes 50% to 80% and 80% to 120% of median household income. The voluntary affordable housing production goals in the Urban Growth Management Functional Plan will serve as a guide to measure progress toward meeting the affordable housing needs of the region.

1.3.6. Increasing and Preserving the Supply of Affordable Housing

A wide variety of measures will be needed in order to achieve the purposes of the regional affordable housing strategy. Metro's legal authority to require cities and counties to amend their comprehensive plans and implementing ordinances is only one of the mechanisms that may be used.

Some land use planning tools will be helpful if used in comprehensive plan amendments to encourage the development and retention of some types of affordable housing. However, land use planning requirements may have limited effect in encouraging some types of affordable housing. Non-land use tools that are not suitable for inclusion in the Functional Plan or in local comprehensive land use plans can encourage the development and retention of some types of affordable housing. These non-land use tools can be designed and implemented by voluntary, cooperative efforts. Metro has additional powers, including financing authority, that may be used. Other governmental agencies and non-profit entities will need to be partners in achieving the goals of the RAHS. Special district service providers, public housing agencies, urban renewal agencies and others will play significant roles.

The H-TAC addressed and recommended in the RAHS Land use planning strategies and tools together with other non-land use tools and strategies that are needed to attain the affordable housing production goals. The H-TAC also recommended in the RAHS those organizations that could take the lead in the development and implementation of these non-land use tools and strategies.

1.3.6.A. Metro Actions

In order to address the region's affordable housing challenges, Metro ~~may~~will consider the following actions:

- a. Develop a best practices handbook; hold forums and explore other methods of increasing affordable housing as noted in the RAHS.
- b. Assist local governments in setting up a regional administrative infrastructure for the administration of a regional housing fund as available.
- c. Consider voluntary inclusionary housing requirements when amending the Urban Growth Boundary
- d. Consider the cost of providing infrastructure to land within the urban growth boundary when expanding the boundary.
- e. Consider using a cost/benefit analysis to determine the impact of new regulations on local housing activities related to housing production.
- f. Address storm-water detention/runoff on a watershed basis so as to reduce the cost impact of on site storm water detention requirement.
- g. Consider affordable housing when developing regional natural resource protection programs.
- h. Review it's goals for consistency in its overall regional planning policies and their impact on local planning and zoning activities.
- ~~i. Consider "voluntary inclusionary housing" requirements when amending the Urban Growth Boundary.~~
- ~~j.i.~~ j.i. Provide a legal opinion on Metro's authority on the implementation of system development charges, permit fees, and off-site improvement strategies.
- ~~k.j.~~ k.j. Include consideration of job wage levels to the cost of housing in a jurisdiction or subregion when conducting an analysis of jobs/housing balance.
- ~~l.k.~~ l.k. Implement land use policies in the context of other regional policies in this Regional Framework Plan designed to create livable communities, by supporting the regional transportation system, town centers and corridors, and helping to create a jobs housing balance.
- ~~m.l.~~ m.l. In 2003, use local information and the 2000 U.S. Census data to analyze and update the region's affordable housing needs, and conduct a periodic survey to determine which strategies are working and not working, including why a strategy might work well in one place and not others.
- ~~n.m.~~ n.m. Create, when appropriate an RAHS Implementation Committee to advise Metro and help to review the effectiveness of the strategies and appropriateness of the regional affordable housing production goals. If necessary, the Committee could recommend changes to both the strategies and the affordable housing production goals. The RAHS Implementation Committee shall seek and provide advice and consultation from the MPAC. The structure and composition of the Committee, method of appointment of Committee members,

minimum number of times the Committee shall meet, and timelines for the Committee to report on the matters assigned to it shall be specified by Metro.

1.3.6.B. Local Jurisdictions' Action

Cities and counties within the region should:

- a. Adopt the affordable housing production goals in Table 1 to serve as a guide to measure progress toward meeting the affordable housing needs of households with incomes between 0% and 50% of median household income.
- b. Consider adding to their comprehensive plans land use policies that increase affordable housing. These could include Density Bonus, Replacement Housing, Inclusionary Housing, Transfer of Development Rights, Housing for Elderly and People with Disabilities, Local Regulatory Constraints -Discrepancies in Planning and Zoning Codes and Local Permitting/Approval Process, and Parking.
- c. Consider Implementing non-land use tools and strategies listed in Chapter 4 of the RAHS, including fee waivers or other funding incentives.
- d. Report progress towards increasing the supply of affordable housing 12, 24, and 36 months from the adoption of affordable housing functional plan amendments.

1.3.7. Funding for Affordable Housing

Funding for affordable housing has been an issue for many years. Historically the federal government has provided a substantial portion of funds for the provision of affordable housing. However, long term federal commitments for lower income housing are declining, introducing uncertainties for tenants, owners, communities and lenders. Based on this uncertainty and H-TAC's estimates of the additional subsidy needed to meet the region's affordable housing production goals, the need to create a housing fund available regionwide that to leverage other affordable housing resources can not be overemphasized.

If the region is to be successful in increasing the amount of affordable housing, a housing fund would need the support of a wide range of interests including local governments, the state and business groups. Work to create such funding should be initiated as soon as possible.

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Appendix K Regional Framework Plan

Description of Process for Determining the Benchmark Need for Affordable Housing

[((Number of Households in Jurisdiction in 2017)(Percent of Regional Households in Each Income Group))-(Credit for Assisted Units in Jurisdiction) - (Number of Market Rate Affordable Units in Jurisdiction)]] = Benchmark Need for each Jurisdiction*

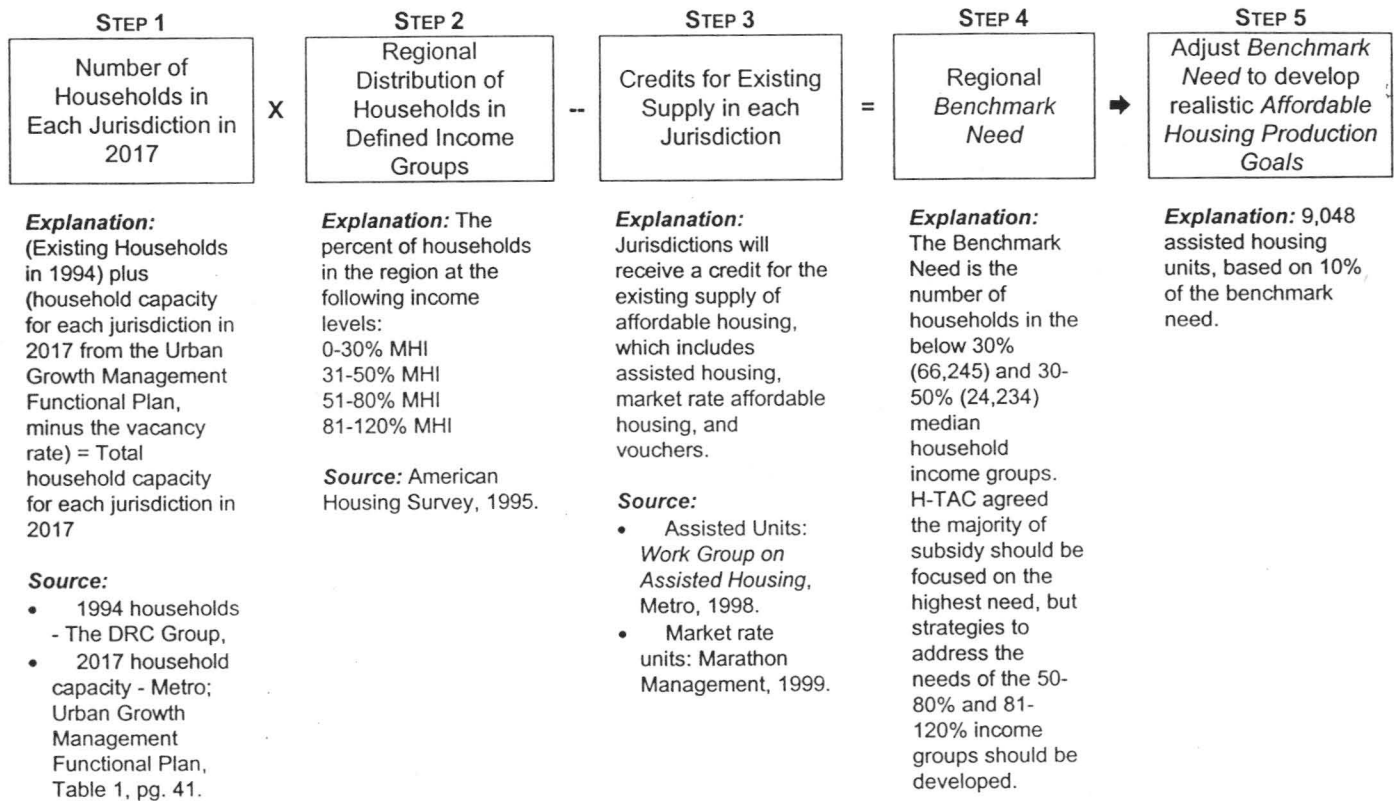


Exhibit "B" of
Ordinance No. 00-882A

**Amended Title 7 in the
Urban Growth Management Functional Plan**

TITLE 7: AFFORDABLE HOUSING

3.07.710 Intent

The Regional Framework Plan stated the need to provide affordable housing opportunities through: a) a diverse range of housing types, available within the region, and within cities and counties inside Metro's urban growth boundary; b) sufficient and affordable housing opportunities available to households of all income levels that live or have a member working in each jurisdiction and subregion; c) an appropriate balance of jobs and housing of all types within subregions; d) addressing current and future need for and supply of affordable housing in the process used to determine affordable housing production goals; and e) minimizing any concentration of poverty. The Regional Framework Plan ~~requires the region and local jurisdictions to adopt~~ directs that Metro's Urban Growth Management Functional Plan include voluntary -affordable housing production goals to be adopted by local jurisdictions in the region as well as , implement land use and non-land use affordable housing tools and land strategies., The Regional Framework Plan also directs that Metro's Urban Growth Management Functional Plan include and local governments' reporting progress towards increasing the supply of affordable housing.

Title 1 of this functional plan requires cities and counties to change their zoning to accommodate development at higher densities in locations supportive of the transportation system. Increasing allowable densities and requiring minimum densities encourage compact communities, more efficient use of land and should result in additional affordable housing opportunities. These Title 1 requirements are parts of the regional affordable housing strategy.

Ordinance No. 97-715B, Sec. 1.)

3.07.720 Voluntary Affordable Housing Production Goals

Each city and county within the Metro region ~~shall~~ should ~~amend their comprehensive plans to include~~ adopt the Affordable Housing Production Goal indicated in Table 3.07-7 for their city or county as a guide to measure progress toward meeting the affordable housing needs of households with incomes between 0% and 50% median household income in their jurisdiction.

Table 3.07-7
Five-Year Voluntary Affordable Housing Production Goals

Jurisdiction	2001-2006 Affordable Housing Production Goals		
	<i>Needed new housing units for households earning less than 30% of median household income</i>	<i>Needed new housing units for households earning 30-50% of median household income</i>	<i>Total</i>
Beaverton	427	229	656
Cornelius	40	10	50
Durham	6	4	10
Fairview	42	31	73
Forest Grove	55	10	65
Gladstone	43	10	53
Gresham	454	102	556
Happy Valley	29	28	57
Hillsboro	302	211	513
Johnson City	0	0	0
King City	5	0	5
Lake Oswego	185	154	339
Maywood Park	0	0	0
Milwaukie	102	0	102
Oregon City	123	35	158
Portland	1,791	0	1,791
Rivergrove	1	1	2
Sherwood	67	56	123
Tigard	216	103	319
Troutdale	75	56	131
Tualatin	120	69	189
West Linn	98	71	169
Wilsonville	100	80	180
Wood Village	16	1	17
Clackamas County, Urban, Unincorporated	729	374	1,103
Multnomah County, Urban, Unincorporated	81	53	134
Washington County, Urban Unincorporated	1,312	940	2,252
Total	6,419	2,628	9,047

3.07.730 Requirements for Comprehensive Plan and Implementing Ordinance Changes

A. Cities and counties within the Metro region shall:

1. Amend their comprehensive plans to include strategies to ensure a diverse range of housing types within their jurisdictional boundaries.
2. Include in their plans actions and implementation measures designed to maintain the existing supply of affordable housing as well as increase the opportunities for new dispersed affordable housing within their boundaries.
3. Develop plan policies, actions, and implementation measures aimed at increasing opportunities for households of all income levels to live within their individual jurisdictions in affordable housing.

B. Cities and counties within the Metro region shall consider amendment of their comprehensive plans and implementing ordinances with the following affordable housing land use tools and strategies:

1. Density Bonus

A density bonus is an incentive to facilitate the development of affordable housing. Local jurisdictions could consider tying the amount of bonus to the targeted income group to encourage the development of affordable units to meet affordable housing production goals.

2. Replacement Housing

No-Net-Loss housing policies for local jurisdictional review of requested quasi-judicial Comprehensive Plan Map amendments with approval criteria that would require the replacement of existing housing that would be lost through the Plan Map amendment.

3. Inclusionary Housing

- a) Implement voluntary inclusionary housing programs tied to the provision of incentives such as Density Bonus incentives to facilitate the development of affordable housing.
- b) Develop housing design requirements for housing components such as single-car garages and maximum square footage that tend to result in affordable housing.
- c) Consider impacts on affordable housing as a criterion for any legislative or quasi-judicial zone change.

4. Transfer of Development Rights

- a) Implement TDR programs tailored to the specific conditions of a local jurisdiction
- b) Implement TDR programs in Main Street or Town Center areas that involve upzoning

5. Elderly and People with Disabilities

Examine zoning codes for conflicts in meeting locational needs of these populations

6. Local Regulatory Constraints; Discrepancies in Planning and Zoning Codes; Local Permitting or Approval Process

- a) Revise the permitting process (conditional use permits, etc.)
- b) Review development and design standards for impact on affordable housing
- c) Consider using a cost/benefit analysis to determine impact of new regulations on housing production
- d) Regularly review existing codes for usefulness and conflicts
- e) Reduce number of land use appeal opportunities
- f) Allow fast tracking of affordable housing

7. Parking

- a) Review parking requirements to ensure they meet the needs of residents of all types of housing
- b) Coordinate strategies with developers, transportation planners and other regional efforts so as to reduce the cost of providing parking in affordable housing developments

C. The "requirement to consider" means local governments shall report what actions were taken or not taken, including but not limited to the seven land use tools listed above in order to carry out Comprehensive Plan affordable housing policies, and also report on tools considered but not adopted, and why these tools were not adopted.

3.07.740 Requirements for Progress Report

Progress made by local jurisdictions in amending comprehensive plans and consideration of land use related affordable housing tools and strategies to meet the ~~towards meeting~~ voluntary ~~production~~ affordable housing production goals shall be reported according to the following schedule:

- A. Within 12 months from the adoption of this requirement, cities and counties within the Metro region shall submit a brief status report to Metro as to what items they have considered and which items remain to be considered. This analysis could include identification of affordable housing land use tools currently in use as well as consideration of the land use tools in Table XX3.07-7.
- B. Within 24 months from the adoption of this requirement, cities and counties within the Metro region shall provide a report to Metro on the status of their comprehensive plans amendments and adoption of land use-related affordable housing tools.
- C. Within 36 months from the adoption of this requirement, cities and counties within the Metro region shall report to Metro on the amendments to their comprehensive plans, the outcomes of affordable housing tools and implemented, and any other affordable housing developed and expected.

3.07.750 Metro Assessment of Progress

- A. Metro Council and MPAC shall review progress reports submitted by cities and counties and may provide comments to the jurisdictions.
- B. Metro Council shall, in 2003:
 - 1. Formally assess the region's progress toward achieving the affordable housing production goals in Table 3.07-7 using 2000 U.S. Census data and local data;
 - 2. Review and assess affordable housing tools and strategies implemented by local jurisdictions;
 - 3. Examine federal and state legislative changes;
 - 4. Review the availability of a regional funding source; and
 - 5. Re-analyze affordable housing need and decide whether any changes are warranted to the process, tools and strategies, funding plans or goals to ensure that significant progress is made toward providing affordable housing for those most in need.

3.07.760 Recommendations to Implement Other Affordable Housing Strategies

- A. Local jurisdictions are encouraged to consider implementation of the following affordable housing land use tools to increase

the inventory of affordable housing throughout the region. Additional information on these strategies and other land use strategies that could be considered by local jurisdictions are described in Chapter Four of the Regional Affordable Housing Strategy and its Appendixes.

1. Replacement Housing

Consider policies to prevent the loss of affordable housing through demolition in urban renewal areas by implementing a replacement housing ordinance specific to urban renewal zones

2. Inclusionary Housing

When creating urban renewal districts that include housing, include voluntary inclusionary housing requirements where appropriate

B. Local jurisdictions are encouraged to analyze, adopt and apply locally-appropriate non-land use tools, including fee waivers or funding incentives as a means to make progress toward the Affordable Housing Production Goal. Non-land use tools and strategies that could be considered by local jurisdictions are described in Chapter Four of the Regional Affordable Housing Strategy and its Appendixes. Cities and Counties are also encouraged to report on the analysis, adoption and application of non-land use tools at the same intervals that they are reporting on land-use tools (in section 3.07.740)

C. Local jurisdictions are also encouraged to continue their efforts to promote housing affordable to other households with incomes 50% to 80% and 80% to 120% of the regional median household income.

D. Local jurisdictions are encouraged to consider joint coordination or action to meet their combined affordable housing production goals.

Amended Title 8 in the Urban Growth Management Functional Plan

TITLE 8: COMPLIANCE PROCEDURES

3.07.810 Compliance Required

- A.1 All cities and counties within the Metro boundary are hereby required to amend their comprehensive plans and implementing ordinances to comply with the provisions of this functional plan within twenty-four months of the effective date of this ordinance ~~and to comply with the regional affordable housing land use requirements in Title 7 no later than 24 months after their adoption.~~ Metro recommends the adoption of the policies that affect land consumption as soon as possible.
- A.2 All cities and counties within the Metro boundary are hereby required to amend their comprehensive plans and implementing ordinances to comply with the regional affordable housing land use requirements in Title 7 no later than 24 months after their adoption.
- B. Notwithstanding subsection A of this section, cities and counties are required to amend their comprehensive plans and implementing ordinances to comply with sections 3.07.310-.340 of Title 3 within 18 months after the Metro Council has adopted the Model Ordinance and Water Quality and Flood Management Areas Map.

(Ordinance No. 97-715B, Sec. 1. Amended by Ordinance No. 98-730C, Sec. 4.)

3.07.820 Compliance Procedures

- A. On or before six months prior to the 24 month deadline established in section 3.07.810(A.1), cities and counties shall transmit to Metro the following:
1. An evaluation of their local plans, including public facility capacities and the amendments necessary to comply with this functional plan;

2. Copies of all applicable comprehensive plans and implementing ordinances and public facility plans, as proposed to be amended;
3. Findings that explain how the amended city and county comprehensive plans will achieve the standards required in Titles 1 through 6 of this functional plan.

In developing the evaluation, plan and ordinance amendments and findings, cities and counties shall address the Metro 2040 Growth Concept, and explain how the proposed amendments implement the Growth Concept.

- B. Exceptions to any of the requirements in the above titles may be granted by the Metro Council, as provided for in the Regional Urban Growth Goals and Objectives, Section 5.3, after MPAC review. Requests for an exception should include a city or county submittal as specified in this section. The Metro Council will make all final decisions for the grant of any requested exception .

1. Population and Capacity. An exception to the requirement contained in Table 3.07-1 of Title 1 that the target capacities shall be met or exceeded may be granted based on a submittal which includes, but is not limited to, the following:
 - a. A demonstration of substantial evidence of the economic infeasibility to provide sanitary sewer, water, stormwater or transportation facilities to an area or areas; or
 - b. A demonstration that the city or county is unable to meet the target capacities listed in Table 3.07-1 because substantial areas have prior commitments to development at densities inconsistent with Metro target; or
 - c. A demonstration that the dwelling unit and job capacities cannot be accommodated at densities or locations the market or assisted programs will likely build during the planning period.

As part of any request for exception under this subsection, a city or county shall also submit an estimate of the amount of dwelling units or jobs

included in the capacity listed in Table 3.07-1 that cannot be accommodated; and a recommendation which identifies land that would provide for the unaccommodated capacity located outside the urban growth boundary and near or adjacent to the city or county.

In reviewing any request for exception based on the financial feasibility of providing public services, Metro, along with cities and counties, shall estimate the cost of providing necessary public services and compare those with the estimated costs submitted by the city or county requesting the exemption.

2. Parking Measures. Subject to the provisions of Title 2, cities or counties may request an exception to parking requirements. Metro may consider a city or county government request to allow areas designated as Zone A to be subject to Zone B requirements upon the city or county establishing that, for the area in question:
 - a. There are no existing plans to provide transit service with 20-minute or lower peak frequencies; and
 - b. There are no adjacent neighborhoods close enough to generate sufficient pedestrian activity; and
 - c. There are no significant pedestrian activity within the present business district; and
 - d. That it will be feasible for the excess parking to be converted to the development of housing, commerce or industry in the future.

The burden of proof for a variance shall increase based on the quality and timing of transit service. The existence of transit service or plans for the provision of transit service near a 20-minute or lower peak frequency shall establish a higher burden to establish the need for the exception.

3. Water Quality and Flood Management Areas. Cities and counties may request areas to be added or deleted from the Metro Water Quality and Flood Management Area Map based on a finding that the area identified on the map

is not a Water Quality and Flood Management Area or a Fish and Wildlife Habitat Conservation Area, as defined in this functional plan. Areas may also be deleted from the map if the city or county can prove that its deletion and the cumulative impact of all deletions in its jurisdiction will have minimal impact on the water quality of the stream and on flood effects. Findings shall be supported by evidence, including the results of field investigations.

4. Retail in Employment and Industrial Areas. Subject to the provisions of Title 4, cities and counties may request a change in the Employment and Industrial Areas Map. Metro may consider a city or county request to modify an Employment Area to exempt existing or locally designated retail areas, unacknowledged by the date of this Functional Plan, where they can demonstrate that

- a. The Employment and Industrial Areas Map included lands within Employment Areas having a substantially developed existing retail area or a locally designated retail area pursuant to a comprehensive plan acknowledged by the date of this Functional Plan which allowed retail uses larger than 60,000 square feet of gross leasable area per building or business; or
- b. The requested retail area in an Employment Area has been found to be appropriate for an exception based upon current or projected needs within the jurisdiction and the city or county can demonstrate that adequate transportation facilities capacity exists for that retail area.

5. Regional Accessibility. Cities or counties may request an exception to the requirements of Title 6, Regional Accessibility, where they can show that a street system or connection is not feasible for reasons of topographic constraints or natural or built environment considerations.

- C. The Metro Council may grant an extension to time lines under this functional plan if the city or county has demonstrated substantial progress or proof of good cause for failing to complete the requirements on time. Requests for extensions of the compliance requirement in section

3.07.810 of this title should accompany the compliance transmittal required in section 3.07.820(A) of this title.

- D. In addition to the above demonstrations, any city or county request or determination that functional plan policies should not or cannot be incorporated into comprehensive plans shall be subject to the conflict resolution and mediation processes included within the RUGGO, Goal I, provisions prior to the final adoption of inconsistent policies or actions. Final land use decisions of cities and counties inconsistent with functional plan requirements are subject to immediate appeal for violation of the functional plan.
- E. Compliance with requirements of this plan shall be substantial compliance which shall not require cities or counties to violate federal or state law, including state-wide land use goals. Conflicting interpretations of legal requirements may be the subject of a compliance interpretation and conflict resolution under RUGGO Objective 5.3.
- F. On or before six months prior to the 18 month deadline established in section 3.07.810(B), cities and counties shall schedule their first hearing on the ordinance to implement sections 3.07.310-.340 of Title 3, or a hearing on implementation of Title 3, if no code amendments are proposed to comply with Title 3, and transmit notice of that hearing and a copy of the proposed ordinance to Metro at least 30 days prior to the hearing.
 - 1. Metro shall prepare and mail a notice of the city or county hearing to each affected property owner.
 - 2. The Metro notice shall include the date, time, location and the title and number of any local ordinance; an explanation of the general requirements of Title 3, and an explanation of the implementation in the local ordinance, if no code amendments are proposed to comply with Title 3.
 - 3. Metro shall review any amendments to Title 3 proposed by cities and counties based on the testimony of property owners.
- G. On or before six months prior to the 18 month deadline established in section 3.07.810(B), cities and counties shall transmit to Metro the following:

1. An evaluation of their local plans, including any relevant existing regulations and the amendments necessary to comply with Title 3 of this functional plan;
2. Copies of all applicable comprehensive plans, maps and implementing ordinances as proposed to be amended;
3. Findings that explain how the amended city and county comprehensive plans, maps and implementing ordinances will achieve the standards required in Title 3 of this functional plan.

In developing the evaluation, plan and ordinance amendments and findings, cities and counties shall address the Metro 2040 Growth Concept, and explain how the proposed amendments implement the Growth Concept.

(Ordinance No. 97-715B, Sec. 1. Amended by Ordinance No. 98-730C, Secs. 5, 6, 7; Ordinance No. 98-727C, Sec. 1.)

3.07.830 Any Comprehensive Plan Change Must Comply

- A. After February 19, 1997, any amendment of a comprehensive plan or implementing ordinance shall be consistent with the requirements of this functional plan.
- B. In addition to any transmittal required by section 3.07.820 of this title, in the process of amending any comprehensive plan provision or implementing ordinance, a city or county shall give notice to Metro as required herein. At the same time any notice is given to the director of the Department of Land Conservation and Development pursuant to ORS 197.610 or 197.615, a copy shall be sent to Metro's Executive Officer. In addition to the content of the notice required by ORS 197.610 or 197.615, the notice furnished to Metro should include an analysis demonstrating that the proposed amendments are consistent with this functional plan, if available. If the analysis demonstrating consistency with the functional plan is not included in the initial notice, a report containing the analysis shall be delivered to Metro no later than fourteen (14) days before the city or county conducts a final hearing on the proposed amendment.

- C. If no notice of intent to appeal is filed within the 21-day period set out in ORS 197.830(8), an amendment to a city or county comprehensive plan or land use regulation to implement this functional plan shall be deemed to be in compliance with this functional plan. If the city or county amendment is appealed pursuant to ORS 197.830 to 197.855 and is ultimately affirmed on appeal, the amendment shall be deemed to be in compliance with the functional plan upon the date that the appellate decision becomes final. This functional plan shall not apply to land use decisions made in conformance with city or county comprehensive plans or land use regulations deemed in compliance with this functional plan pursuant to this subsection.
- D. An amendment to a city or county comprehensive plan or land use regulation shall not be deemed in compliance with this functional plan as provided in subsection C of this section unless notice has been given to Metro as provided in subsection B of this section.

(Ordinance No. 97-715B, Sec. 1. Amended by Ordinance No. 98-727C, Sec. 2.)

3.07.840 Compliance Plan Assistance

- A. Any city or county may request of Metro a compliance plan which contains the following:
1. An analysis of the city or county comprehensive plan and implementing ordinances, and what sections require change to comply with the performance standards.
 2. Specific amendments that would bring the city or county into compliance with the requirements of Titles 1 to 8, if necessary.
- B. Cities and counties must make the request within four months of the effective date of this ordinance. The request shall be signed by the highest elected official of the jurisdiction.
- C. Metro shall deliver a compliance plan within four months of the request date. The compliance plan shall be a recommendation from the Executive Officer. The compliance plan shall be filed with the Metro Council two weeks before it is transmitted, for possible review and comment.

(Ordinance No. 97-715B, Sec. 1.)

3.07.850 Citizen Involvement Process

- A. Any citizen may contact Metro staff or the Metro Executive Officer or appear before the Metro Council to raise issues regarding local functional plan compliance, to request Metro participation in the local process, or to request the Metro Council appeal a local enactment for which notice is required to be given to Metro pursuant to section 3.07.830 of Title 8. Such contact may be either oral or in writing and may be made at any time during or at the conclusion of any city or county proceeding to amend a comprehensive plan or implementing ordinance for which notice is required to be given to Metro pursuant to section 3.07.830 of Title 8. All such requests to participate or appeal made in writing shall be forwarded to the Metro Council.
- B. In addition to considering requests as described in (A) above, the Metro Council shall at every regularly scheduled Council meeting provide an opportunity for citizens to address the Council on any matter related to this functional plan.
- C. Cities, counties and Metro shall comply with their own adopted and acknowledged Citizen Involvement Requirements (Citizen Involvement) in all decisions, determinations and actions taken to implement and comply with this functional plan. The Executive Officer shall at least annually publish and distribute a Citizen Involvement fact sheet after consultation with the Metro Committee for Citizen Involvement, that fully describes all opportunities for citizen involvement in Metro's Regional Growth Management Process as well as the implementation and enforcement of this functional plan.

(Ordinance No. 97-715B, Sec. 1.)

3.07.860 Enforcement

- A. Prior to a final decision to amend a comprehensive plan or implementing ordinance, a city or county determination that a requirement of this functional plan should not or cannot be implemented may be subject to a compliance interpretation and the conflict resolution process provided for in RUGGO, Goal I at the request of the city or county.

- B. City or county actions to amend a comprehensive plan or implementing ordinance in violation of this functional plan at any time after the effective date of this ordinance shall be subject to appeal or other legal action for violation of a regional functional plan requirement, including but not limited to reduction of regional transportation funding and funding priorities.
- C. Failure to amend comprehensive plans and implementing ordinances as required by section 3.07.810 of this title shall be subject to any and all enforcement actions authorized by law.

(Ordinance No. 97-715B, Sec. 1.)



METRO

***Comments and Responses to Ordinance 00-882
Amendments to the Regional Framework Plan and Urban Growth Management
Functional Plan regarding Affordable Housing***

December 6, 2000

1. Comment: "No opportunity has been given to H-TAC members to formally review the ordinance language to ensure that it accurately reflects all of our recommendations". (**Tasha Harmon, Community Development Network**)

Response: Disagree in part.

The intent is to mirror the RAHS exactly. As soon as the documents were authorized by Metro Council on November 16, 2000 for release for public discussion, HTAC members were notified via email with the documents attached. The public hearing process (scheduled by the Metro Council on December 7, 2000) is intended to provide the opportunity for corrections if needed. In addition, Metro Executive Officer sent out a separate letter to local governments on November 15, 2000 on final opportunity for government coordination comments. The deadline for comments in that letter was November 30, 2000.

2. Comment: "There needs to be a clear articulation of the policy premise of the Affordable Housing Production Goals and a clear statement that Metro Council is adopting the recommended method in the RAHS plan. This should go in Exhibit A 1.3.1. A good articulation of the policy premise is on page 16 of the RAHS (bolded sentence) "The goal of the affordable housing distribution method is to "achieve an equitable distribution of housing opportunity among local jurisdictions in the region by working towards a similar distribution of household incomes within each Metro jurisdiction that reflects the regional income distribution as a whole." At the December 5, 2000 Metro Council Growth Management Committee public hearing, Tasha Harmon recommended inclusion of the methodology in the document. (**Tasha Harmon, Community Development Network**)

Response: Agree.

Recommend adding the following statement in Section 1.3.5 of Exhibit A: "An affordable housing distribution method should be established in the Urban Growth Management Functional Plan that sets voluntary goals for each jurisdiction to encourage working towards a similar distribution of household incomes within each Metro jurisdiction that reflects the regional income distribution as a whole." Further, the Metro Council Growth Management Committee amended the document (in Section 1.3.5 of the Exhibit A) to include the methodology.

3. Comment: Section 1.3.5. The sentence "Local jurisdictions shall adopt the voluntary affordable housing production goals established by Urban Growth Management Functional Plan to serve as a guide to measure progress toward meeting the affordable housing needs of households with incomes between 0% and 50% of median household income." should be changed as HTAC did not intend mandating such goals whether voluntary or not. In addition, the Regional Framework Plan cannot mandate local government action. (**Hal Bergsma, City of Beaverton**)

Response: Agree

On page 78 of the RAHS it states that "Local governments should adopt the Affordable Housing Production Goal (Table 15) to serve as a guide to measure progress toward meeting the affordable housing needs of households with incomes between 0% and 50 % MHI in the jurisdictions and throughout the region. Accordingly, to be consistent with the RAHS language, we recommend that the "shall" be replaced with "should".

4. Comment: Section 1.3.6 of Exhibit A is very weak. The opening sentence needs to say "Metro *shall* take the following actions" rather than "may consider". The list is already full of "consider" language rather than "adopt". (Tasha Harmon, Community Development Network)

Response: Agree in part.

The Metro Council Growth Management Committee amended the first sentence in Section 1.3.6.A of Exhibit A to indicate "Metro ~~may~~ will consider"

5. Comment: Within Section 1.3.6A, item "i" (Consider voluntary inclusionary housing requirements when amending the UGB) repeats item "c" (Consider "voluntary inclusionary housing" requirements when amending the Urban Growth Boundary). (Hal Bergsma, City of Beaverton)

Response: Agree .

Item i should be struck.

6. Comment: Section 1.3.6A includes actions of questionable utility and raises questions about Metro efforts to expand their authority. (Hal Bergsma, City of Beaverton)

Response: Disagree in part.

These recommendations are taken word for word from the RAHS which was recommended for adoption by MPAC and which the Metro Council accepted and directed staff to prepare Framework Plan and Functional Plans consistent with the RAHS.

7. Comment: "The language needs to make a clear commitment to convene the RAHS Implementation Committee within a certain timeframe. (Letter "n" of 1.3.6, Exhibit A) "When appropriate" is too vague. This committee should meet quarterly starting in January". (Tasha Harmon, Community Development Network)

Response: Disagree in part.

The current wording is adequate to express that this action has Metro budget implications and that the Metro Council may choose to appoint a RAHS Implementation Committee before or during the implementation of the Functional Plan requirements by local governments.

8. Comment: Section "1.3.6.B "Local Jurisdictions' Actions" needs to say "Cities and Counties within the region *shall*" not "should". The RAHS recommendations ask the local jurisdictions to do almost nothing in terms of real action or outcomes. They should be required to take these few actions that were agreed on." (Tasha Harmon, Community Development Network)

Response: Disagree.

The current wording in Section 1.3.6.B of Exhibit A is adequate to express the overall policy direction for developing the actions required of local governments in the Urban Growth Management Functional Plan amendments and is intended to accurately incorporate the recommendations of the RAHS.

9. Comment: "Reporting requirements need to be clarified in 1.3.6 B subsection (d). There needs to be language added to reflect the full reporting requirements in the RAHS pages 77,81,82 and Exhibit B's page 6. It could say *"Report amendments to Comprehensive Plans to bring the jurisdictions into compliance with the RFP requirements, changes to local policies relevant to affordable housing preservation and development and progress towards increasing the supply..."* (Tasha Harmon, Community Development Network)

Response: Disagree.

The current wording in Section 1.3.6.B of Exhibit A is adequate to express the overall policy direction for developing the actions required of local governments in the Urban Growth Management Functional Plan amendments and is intended to accurately incorporate the recommendations of the RAHS.

10. Comment: Section 3.07.710 states that "The Regional Framework Plan requires the region and local jurisdictions to adopt affordable housing production goals...." The Regional Framework Plan cannot 'require' local jurisdictions to do anything. Metro can only mandate local government action through a functional plan. We suggest the word 'expects' be added before 'local jurisdictions' in the first line. We also suggest that local governments be directed to acknowledge or recognize rather than adopt the region's affordable housing production goals. (Hal Bergsma, City of Beaverton)

Response: Agree in part.

We recommend that the wording be changed as follows: "The Regional Framework Plan directs that Metro's Urban Growth Management Functional Plan include voluntary affordable housing production goals to be adopted by local jurisdictions in the region as well as land use and non-land use affordable housing tools and strategies. The Regional Framework Plan also directs that Metro's Urban Growth Management Functional Plan include local governments' reporting progress towards increasing the supply of affordable housing."

11. Comment: "Does it make sense to amend local Comprehensive Plans to incorporate the Affordable Housing Goals Table (see Section 3.07.720 of Exhibit B, page 5). A Comprehensive Plan amendment is a significant and time consuming process. Should numbers with a three year lifespan (due to be reconsidered in 2003) be incorporated in a 20 year Plan? Couldn't the functional Plan require that jurisdictions acknowledge the Goals by ordinance or resolution and save the Comp Plan amendment process for substantive changes that take place after the "requirement to consider" the RAHS strategies and regional housing goals?" (Mike Saba, City Of Portland, Bureau of Planning)

Response: Agree.

Suggest that Section 3.07.720 of Exhibit B be rewritten as follows:

"Each city and county within the Metro region should adopt the Affordable Housing Production Goal indicated in Table 3.07-7 for their city or county as a guide to measure progress toward meeting the affordable housing needs of households with incomes between 0% and 50% median household income in their jurisdiction."

12. Comment: "The language of the RAHS says local governments should (not shall) adopt the Regional Affordable Housing Goals. [See page 78 of the RAHS---Local Jurisdictions' adoption of affordable housing production goals is listed under "Voluntary Actions by Metro and Local Governments," and it reads "Local jurisdictions should adopt the Affordable Housing Production Goals (Table 15)...] All of the draft documents need to be changed to be consistent with the RAHS. We think

that this solution would also address Mike's concern about the Regional Affordable Housing Goals.”
(Andree Tremoulet, City of Gresham, Community Development Department)

Response: Agree.

As suggested in the previous response, it is suggested that Section 3.07.720 of Exhibit B be rewritten as follows:

“Each city and county within the Metro region should adopt the Affordable Housing Production Goal indicated in Table 3.07-7 for their city or county as a guide to measure progress toward meeting the affordable housing needs of households with incomes between 0% and 50% median household income in their jurisdiction.”

13. Comment: We are unclear about how to ‘include’ our City’s affordable housing production goal in our Comprehensive Plan.” Metro should provide some guidance as to the level of analysis needed and would be viewed as valid reasons to reject adoption of a tool. (Hal Bergsma, City of Beaverton)

Response:

We recommend that how the affordable housing production goal is incorporated into local government documents or what constitutes adequate consideration of an affordable housing tool by a local government remain a local government decision. However, as noted on Comments #11 and #12, it could be adopted but not as a comprehensive plan amendment.

14. Comment: Section 3.07.730, Requirements for Comprehensive Plan and Implementing Ordinance Changes, subsection A.1, states that “Cities and counties within the Metro region shall amend their comprehensive plans to include strategies to ensure a diverse range of housing types within their jurisdictional boundaries.” We are uncomfortable with the use of the word ‘ensure’ as it implies this is something local governments can make happen when the type of housing built is dependent primarily on market trends and private sector decisions. (Hal Bergsma, City of Beaverton)

Response: Disagree.

While it is true that the private sector builds housing, it is also true that there have been instances where more affordable housing has been prevented by regulations that effectively exclude such housing that would otherwise be built. This language is intended to encourage regulations are not exclusionary.

15. Comment: Section 3.07.730 states in part that: “Cities and counties within the region shall consider amendment of their comprehensive plans and implementing ordinances with the following affordable housing land use tools and strategies...” While the Regional Framework Plan states that Metro “may consider” certain actions to address affordable housing, it requires local governments to take certain actions. Metro should hold itself to the same requirement. (Hal Bergsma, City of Beaverton)

Response: Disagree.

These recommendations written as taken from the RAHS.

16. Comment: “Section 1.3.6.B of the Framework Plan (Attachment A) talks about the need for funds for affordable housing. We think that this section should be strengthened by adding the data from the RAHS which indicates the size of the gap---\$124 million (or 78% of the total) needed to achieve the five year goals.”(Andree Tremoulet, City of Gresham, Community Development Department)

Response: Disagree in part.

Section 1.3.6.B of Exhibit A does not mention the “need for funds...” The “need for regional housing fund” is mentioned in Section 1.3.7 of Exhibit A. The policies in Exhibit A (Regional Framework Plan amendments) express the overall policy direction for creating a regional housing fund. However, a sentence could be added to section 1.3.7 stating: “An estimate has been made that as much as \$124 million of affordable housing assistance funds might be needed to achieve the region’s five year goal.”

17. Comment: “There should be some indication of which agency or agencies should initiate the work to create a funding source.” (**Hal Bergsma, City of Beaverton**)

Response: Disagree in part.

As much is not known at this time about where the regional housing fund might be obtained, we believe that it is not timely to direct which agency or agencies should initiate this work at this time.

18. Comment: “We question whether an amendment to Title 8 is the best way to achieve the reporting required--it seems that this imposes standards far different than those recommended by the RAHS.” (**Andree Tremoulet, City of Gresham, Community Development Department**)

Response: Disagree.

This language is proposed in order to clarify that earlier compliance deadlines (established in 1996 for other titles within the Urban Growth Management Functional Plan) are not confused with the newly proposed affordable housing compliance timetable. This language is consistent with the RAHS recommended time line. We remain open to specific recommendations for changes consistent with the RAHS.

19. Comment: The new language on compliance related affordable housing added to Section 3.07.810.A (Compliance Required) of Title 8 in Exhibit B contradicts the existing language in Section 3.07.810.A (Compliance Procedures) on the same page. (**Jim Zehren, MPAC**)

Response: Agree

Suggest that Section 3.07.810 (A) (Compliance Required) be split into two subsections A1 and A2 as shown below, where subsection A.1. contains the current language, and subsection A.2. contains the new language on compliance related to affordable housing. Also suggest that Section 3.07.820(A) be amended accordingly to reflect that this section applies only to Section 3.07.810(A.1):

3.07.810 (A.1)

“A.1. All cities and counties within the Metro boundary are hereby required to amend their comprehensive plans and implementing ordinances to comply with the provisions of this functional plan within twenty-four months of the effective date of this ordinance. Metro recommends the adoption of the policies that affect land consumption as soon as possible.”

3.07.810 (A.2)

“A.2. All cities and counties within the Metro boundary are hereby required to amend their comprehensive plans and implementing ordinances to comply with the regional affordable housing land use requirements in Title 7 no later than 24 months after their adoption.”

3.07.820 (A)

“On or before six months prior to the 24 months deadline established in section 3.07.810(A.1), cities and counties shall transmit to Metro the following:.....”

20. Comment: The following changes to Section 1.3.6.B. of Exhibit A was submitted in writing at the Metro Technical Advisory Committee (**Richard Ross, City of Gresham**):

1.3.6.B. Local Jurisdictions' Actions

- a. Cities and counties within the region should:
 1. Adopt the affordable housing production goals in Table 1 to serve as a guide to measure progress toward meeting the affordable housing needs of households with incomes between 0% and at or below 50% of median household income
 2. Analyze, adopt and apply locally-appropriate non-land use tools as a means to make progress toward the Affordable Housing Production Goals.
 3. Report on the analysis, adoption and application of non-land use tools at the same intervals that they are reporting on land use tools.
- b. ~~Consider adding to their comprehensive plans land use policies that increase affordable housing. These could include Density Bonus, Replacement Housing, Inclusionary Housing, Transfer of Development Rights, Housing for Elderly and People with Disabilities, Local Regulatory Constraints, Discrepancies in Planning and Zoning Codes and Local Permitting/Approval Process, and Parking.~~
- c. ~~Implement non-land use tools and strategies listed in Chapter 4 of the RAHS, including fee waivers or other funding incentives~~
- d. ~~Report progress towards increasing the supply of affordable housing 12, 24 and 36 months from the adoption of affordable housing functional plan amendments.~~
- b. Cities and counties within the region shall:
 1. Amend each local Comprehensive Plan so that it complies with the following regional affordable housing land use policies not later than 24 months after the adoption of the affordable housing functional plan amendments:
 - Local comprehensive plans will include strategies resulting in the development of a diverse range of housing types in the region
 - Cities and counties shall prescribe with their plans actions and implementation measures designed to maintain the existing supply of affordable housing as well as increase the supply of affordable housing within their boundaries
 - Cities and counties shall prescribe plan policies, actions and implementation measures aimed at increasing opportunities for households of all income levels to live within their individual jurisdictions in affordable housing
 2. Consider using the following affordable housing land use tools to carry out their comprehensive plan affordable housing policies: density bonus, replacement housing, voluntary inclusionary housing, transfer of development rights, locational opportunities for housing for elderly and people with disabilities, removal of local regulatory constraints, and parking cost reduction. Consideration by local governments shall include identification of tools currently in use and additional affordable housing land use tools, including but not limited to those listed in the prior sentence, to be implemented to comply with the affordable housing land use policies.
 3. Provide the following progress reports at 12, 24 and 36 months from the adoption of the affordable housing functional plan amendments:
 - 12 months: Status report on comprehensive plan analysis
 - 24 months: Status report on comprehensive plan amendments and adoption of land use affordable housing tools

- 36 months: Status report on comprehensive plan amendments, adoption of land use affordable housing tools and strategies, outcomes of those strategies, and progress toward Affordable Housing Production Goals.

Response: Agree in Part

Suggest that Section 1.3.6.B. of Exhibit A be rewritten as follows (this is also the MTAC recommendation):

1.3.6.B. Local Jurisdictions' Action

Metro shall amend its Urban Growth Management Functional Plan to include the following recommendations and requirement:

- a. Cities and counties within the region should:
 1. Adopt the affordable housing production goals in Table 1 to serve as a guide to measure progress toward meeting the affordable housing needs of households with incomes at or below 50% of median household income
 2. Analyze, adopt and apply non-land use tools as a means to make progress toward the Affordable Housing Production Goals.
 3. Report on the analysis, adoption and application of non-land use tools at the same intervals that they are reporting on land use tools.
- b. Cities and counties within the region shall consider:
 1. Amendment to their comprehensive plans to include strategies to ensure a diverse range of housing types within their jurisdictional boundaries.
 2. Include in their plans actions and implementation measures designed to maintain the existing supply of affordable housing as well as increase the opportunities for new dispersed affordable housing within their boundaries.
 3. Develop plan policies, actions, and implementation measures aimed at increasing opportunities for households of all income levels to live within their individual jurisdictions in affordable housing.
- c. Cities and counties within the Metro region shall consider amendment of their comprehensive plans and implementing ordinances with the following affordable housing land use tools and strategies:
 1. **Density Bonus**
A density bonus is an incentive to facilitate the development of affordable housing. Local jurisdictions could consider tying the amount of bonus to the targeted income group to encourage the development of affordable units to meet affordable housing production goals.
 2. **Replacement Housing**
No-Net-Loss housing policies for local jurisdictional review of requested quasi-judicial Comprehensive Plan Map amendments with approval criteria that would require the replacement of existing housing that would be lost through the Plan Map amendment.
 3. **Inclusionary Housing**
 - a) Implement voluntary inclusionary housing programs tied to the provision of incentives such as Density Bonus incentives to facilitate the development of affordable housing.
 - b) Develop housing design requirements for housing components such as single-car garages and maximum square footage that tend to result in affordable housing.
 - c) Consider impacts on affordable housing as a criterion for any legislative or quasi-judicial zone change.
 4. **Transfer of Development Rights**
 - a) Implement TDR programs tailored to the specific conditions of a local jurisdiction

- b) Implement TDR programs in Main Street or Town Center areas that involve upzoning
- 5. Elderly and People with Disabilities
 - Examine zoning codes for conflicts in meeting locational needs of these populations
- 6. Local Regulatory Constraints; Discrepancies in Planning and Zoning Codes; Local Permitting or Approval Process
 - a) Revise the permitting process (conditional use permits, etc.)
 - b) Review development and design standards for impact on affordable housing
 - c) Consider using a cost/benefit analysis to determine impact of new regulations on housing production
 - d) Regularly review existing codes for usefulness and conflicts
 - e) Reduce number of land use appeal opportunities
 - f) Allow fast tracking of affordable housing
- 7. Parking
 - a) Review parking requirements to ensure they meet the needs of residents of all types of housing
 - b) Coordinate strategies with developers, transportation planners and other regional efforts so as to reduce the cost of providing parking in affordable housing developments
- d. Cities and counties within the region shall report progress towards increasing the supply of affordable housing 12, 24, and 36 months from the adoption of affordable housing functional plan amendments.

21. Comment: The addition of the word “subregions” in the third bullet in Section 1.3.1 of Exhibit A (“An appropriate balance of jobs and housing of all types within subregions”) is a concern. Local governments actions towards implementation of affordable housing tools on subregional basis has not been defined. In addition, it was suggested that job/housing apply to mixed-use design types and jurisdictions, not just subregions. **(Bob Clay, City of Portland, Metro Technical Advisory Committee meeting of December 6, 2000)**

Response: Disagree

The current words in the third bullet of Section 1.3.1. (“An appropriate balance of jobs and housing of all types within subregions”) reflects exactly the recommendations of the H-TAC in the RAHS. This current wording is adequate to express one of the overall policy objectives of the regional affordable housing strategy. Metro’s Periodic Review work plan, the products of which MTAC and MPAC will review, will attempt to define what is appropriate with regard to subregional and jobs/housing balance.

22. Comment: In reference to Section 3.07.730 of Exhibit B, what constitutes “adequate consideration of affordable housing land use tools and strategies” by a local jurisdiction? **(Hal Bergsma, City of Beaverton, Metro Technical Advisory Committee meeting of December 6, 2000)**

Response:

The interpretation of what constitutes “adequate consideration of affordable housing land use tools and strategies” is recommended to be left to individual jurisdictions.



METRO

TO: Presiding Officer David Bragdon, and Metro Council members
FROM: Andrew C. Cotugno, Director, Transportation and Growth Management Departments
DATE: December 7, 2000
SUBJECT: MTAC recommendations - Affordable housing

This memo is intended to just focus on MTAC recommendations that could change Ordinance 00-882A. Other MTAC observations are included in the Comments and Response document, comments 21 and 22.

These recommendations were made at MTAC's meeting yesterday concerning affordable housing and are attached, below. Metro staff concurs with these recommendations.

The MTAC proposed changes listed below would amend Metro's Regional Framework Plan only (the changes to the Functional Plan to which they refer are already part of draft Ordinance 00-882A, Exhibit B). The proposed changes affect the organization of this section of the Framework Plan, and gather all of the recommendations and requirements recommended for local government into this one section.

Included in these changes is a statement that directs that the Functional Plan be amended to address the relevant recommendations and requirements. This additional sentence clarify that the Framework Plan is a policy document, and that it is Metro's Urban Growth Management Functional Plan which is binding on cities and counties. This should also make State acknowledgement of this component easier as the link between the policy (the Regional Framework Plan) and implementation (or at least direction of implementation by the Functional Plan.) is explicit.

These proposed changes are also consistent with, and in fact are quotes from, the Regional Affordable Housing Strategy. These proposed changes do not change the purpose or substance of draft Ordinance 00-882A.

I would be happy to discuss these recommendations with you.

Thank you.

cc: Mike Burton, Executive Officer

MTAC recommendations for Changes to the Regional Framework Plan (Section 1.3.6.B, Local Jurisdictions Action)

1.3.6.B Local Jurisdictions' Action

Cities and counties within the region should:

- a. ~~Adopt the affordable housing production goals in Table 1 to serve as a guide to measure progress toward meeting the affordable housing needs of households with incomes between 0% and 50% of median household income.~~
- b. ~~Consider adding to their comprehensive plans land use policies that increase affordable housing. These could include Density Bonus, Replacement Housing, Inclusionary Housing, Transfer of Development Right, Housing for Elderly and People with Disabilities, Local Regulatory Constraints—Discrepancies in Planning and Zoning Codes and Local Permitting/Approval Process, and Parking.~~
- c. ~~Consider implementing non-land use tools and strategies listed in Chapter 4 of the RAHS, including fee waivers or other funding incentives.~~
- d. ~~Report progress towards increasing the supply of affordable housing 12, 24, and 36 months from the adoption of affordable housing functional plan amendments.~~

Metro shall amend its Urban Growth Management Functional Plan to include the following recommendations and requirement:

- a. Cities and counties within the region should:
 - 1. Adopt the affordable housing production goals in Table 1 to serve as a guide to measure progress toward meeting the affordable housing needs of households with incomes at or below 50% of median household income
 - 2. Analyze, adopt and apply non-land use tools as a means to make progress toward the Affordable Housing Production Goals.
 - 3. Report on the analysis, adoption and application of non-land use tools at the same intervals that they are reporting on land use tools.
- b. Cities and counties within the region shall consider:
 - 1. Amendment to their comprehensive plans to include strategies to ensure a diverse range of housing types within their jurisdictional boundaries.
 - 2. Include in their plans actions and implementation measures designed to maintain the existing supply of affordable housing as well as increase the opportunities for new dispersed affordable housing within their boundaries.

3. Develop plan policies, actions, and implementation measures aimed at increasing opportunities for households of all income levels to live within their individual jurisdictions in affordable housing.

c. Cities and counties within the Metro region shall consider amendment of their comprehensive plans and implementing ordinances with the following affordable housing land use tools and strategies:

1. Density Bonus

A density bonus is an incentive to facilitate the development of affordable housing. Local jurisdictions could consider tying the amount of bonus to the targeted income group to encourage the development of affordable units to meet affordable housing production goals.

2. Replacement Housing

No-Net-Loss housing policies for local jurisdictional review of requested quasi-judicial Comprehensive Plan Map amendments with approval criteria that would require the replacement of existing housing that would be lost through the Plan Map amendment.

3. Inclusionary Housing

- a) Implement voluntary inclusionary housing programs tied to the provision of incentives such as Density Bonus incentives to facilitate the development of affordable housing.
- b) Develop housing design requirements for housing components such as single-car garages and maximum square footage that tend to result in affordable housing.
- c) Consider impacts on affordable housing as a criterion for any legislative or quasi-judicial zone change.

4. Transfer of Development Rights

- a) Implement TDR programs tailored to the specific conditions of a local jurisdiction
- b) Implement TDR programs in Main Street or Town Center areas that involve upzoning

5. Elderly and People with Disabilities

Examine zoning codes for conflicts in meeting locational needs of these populations

6. Local Regulatory Constraints; Discrepancies in Planning and Zoning Codes; Local Permitting or Approval Process

- a) Revise the permitting process (conditional use permits, etc.)
- b) Review development and design standards for impact on affordable housing
- c) Consider using a cost/benefit analysis to determine impact of new regulations on housing production
- d) Regularly review existing codes for usefulness and conflicts
- e) Reduce number of land use appeal opportunities
- f) Allow fast tracking of affordable housing

7. Parking

- a) Review parking requirements to ensure they meet the needs of residents of all types of housing
- b) Coordinate strategies with developers, transportation planners and other regional efforts so as to reduce the cost of providing parking in affordable housing developments
- d. Cities and counties within the region shall report progress towards increasing the supply of affordable housing 12, 24, and 36 months from the adoption of affordable housing functional plan amendments.

Community Development Network**FAX COVER SHEET**

5 pages (including cover)

December 5, 2000

To: Metro Councilor Ed Washington**Fr:** Tasha Harmon, CDN, 335-9884, fax 335-9862, cdn@teleport.com**Re:** RAHS Ordinance Language

Non-profits developing
affordable housing and
revitalizing neighborhoods

I inadvertently left you off my cc list when I faxed this memo to the Growth Management Committee two weeks ago. My apologies. This ordinance is on such a fast time line that I am scrambling to keep up.

As I noted in my testimony to the Growth Management Committee, I think Metro staff has largely done a good job of translating the RAHS recommendations in to ordinance language, but there are several key sections that I think are absent or not accurately translated. I will be at the Growth Management Committee meeting this afternoon to hear what changes staff may have made to their draft in response to my recommendations and to answer questions Committee members may have. Please give me a call if you have questions about my recommendations.

Thanks for your support of affordable housing.

Community Development Network



November 20, 2000

To: Members of Metro's Growth Management Committee
Susan McLain
Rod Park
Rod Monroe
David Bragdon

From: Tasha Harmon, Community Development Network, HTAC

Re: RAHS Ordinance Language (00-882)

I understand that tomorrow the Growth Management Committee will be reviewing Ordinance 00-882, which would transform the recommendations of HTAC's Regional Affordable Housing Strategy into components of the Regional Framework Plan and the Urban Growth Management Functional Plan. I am delighted that Metro Council is indeed moving forward on the RAHS recommendation, but I have several concerns that I wish to communicate to you at this time. I do not know whether I will be able to attend this meeting (I did not receive notice that this would be on your agenda tomorrow until late last week).

Non-profits developing
affordable housing and
revitalizing neighborhoods

My first concern is about the process. No opportunity has been given to HTAC members to formally review the ordinance language to ensure that it accurately reflects all of our recommendations. Indeed, despite my requests to staff to circulate the reports and recommendations they were drafting, HTAC members did not receive any notification that these reports and the ordinance language were ready for public review until after it went to MPAC last week. We got less than one week's notice that your committee would be reviewing these recommendations. This feels extremely disrespectful of all the time and work HTAC members invested in the creation of the RAHS recommendations, and it is short-sighted in terms of making good use of our expertise.

My second concern is about the content of the recommended ordinance language. Most of the translation of the RAHS appears to be accurate (though I have not had time to do a careful review of each recommendation to be sure that it is well represented), and I commend Metro staff for their work. However, there are a few key recommendations that do NOT appear to me to be included accurately in the Ordinance. I have attached my initial notes about those omissions.

There are five key issues that are not well addressed in the Ordinance. They are described in the attached memo (in the bolded sections), along with other changes I think need to be made before the Ordinance is passed. The following list highlights the most important points in that memo, for the convenience of the Committee.

- 1) **There needs to be a clear articulation of the policy premise of the Affordable Housing Production Goals and a clear statement that Metro Council is adopting the recommended method in the RAHS plan.** This should go in Exhibit A 1.3.1. A good articulation of the policy premise is on page 16 of the RAHS (bolded sentence) "The goal of the affordable housing distribution method is to "achieve an equitable distribution of housing opportunity among local jurisdictions in the region by working towards a similar distribution of household incomes within each Metro jurisdiction that reflects the regional income distribution as a whole." The actual method should be outlined in an appendix (RAHS pg. 17).
- 2) **Section 1.3.6 of Exhibit A is very weak. The opening sentence needs to say "Metro shall take the following actions" rather than "may consider".** The list is already full of "consider" language rather than "adopt". *Shall* language is necessary in order to create a clear commitment by Metro Council to this work. Also, **the section on Metro financial impact does not reflect this work.** That is a big problem.
- 3) **The language needs to make a clear commitment to convene the RAHS Implementation Committee within a certain timeframe.** (Letter "n" of 1.3.6, Exhibit A) "When appropriate" is too vague. This committee should meet quarterly starting in January.
- 4) **1.3.6.B "Local Jurisdictions' Actions" needs to say "Cities and Counties within the region "shall" not "should". The RAHS recommendations ask the local jurisdictions to do almost nothing in terms of real action or outcomes. They should be required to take these few actions that were agreed on.** (Also, (c) in this section appears to imply that Metro is making a stronger recommendation on the adoption of non-land-use tools than land use tools by saying that that local jurisdictions should "implement" non-land use tools, but only that that they "consider" adding the land use tools to their Comp Plans.)
- 5) **Reporting requirements need to be clarified in 1.3.6 B subsection (d).** There needs to be language added to reflect the full reporting requirements in the RAHS pages 77,81,82 and Exhibit B's page 6. It could say ***"Report amendments to Comprehensive Plans to bring the jurisdictions into compliance with the RFP requirements, changes to local policies relevant to affordable housing preservation and development and progress towards increasing the supply..."***

Given the short timeframe for review, I have been unable to communicate with my board and members or with other HTAC members in any systematic way about the process or content concerns I have, so I cannot tell you what the "official position" of the Community Development Network or HTAC is on these points. Please accept them as a heads-up from me as an individual HTAC member connected to a network of affordable housing providers who will need to be key partners in making the region's affordable housing efforts succeed.

I would appreciate a response from your committee to the points raised in this letter and my attached memo. Thank you for your attention to these crucial issues.

November 14th, 2000

To: HTAC Members and other interested parties
From: Tasha Harmon, CDN
Re: My Initial Review of the Ordinance Language Amending the RFP and UGMFP to Incorporate the RAHS Recommendations

These are my initial thoughts about proposed Metro Ordinance 00-882, which amends the RFP and UGMFP to Incorporate the RAHS Recommendations. Mostly the language in Exhibits A and B adequately reflects the RAHS recommendations. There are a few areas where it does not do so. They are as follows. The items in bold are the most important.

In Exhibit A:

- In 1.3.1, there needs to be a clear articulation of the policy premise of the Affordable Housing Production Goals and a clear statement that Metro Council is adopting the recommended method in the RAHS plan. A good articulation of the policy premise is on page 16 of the RAHS (bolded sentence) "The goal of the affordable housing distribution method is to **"achieve an equitable distribution of housing opportunity among local jurisdictions in the region by working towards a similar distribution of household incomes within each Metro jurisdiction that reflects the regional income distribution as a whole."** The actual method should be outlined in an appendix (RAHS pg. 17).
- Also in 1.3.1, second paragraph the word "equitable" should be added between "provide" and "affordable housing", and in the first bullet, the words "all of" should be added after "within".
- We are losing the language that says "at least 20% of the new units in regionwide opportunity areas inside the UGB and in the first tier urban reserves are built to be affordable to households at or below the median income without public subsidy" This is a big loss in terms of a mandate. I'm not sure what to do about this, since it was not well reflected in the RAHS itself. I am not convinced that the RAHS language should substitute for ALL affordable housing language in the RFP and the UGMFP since there is language in the RFP and UGMFP that was not adequately addressed by HTAC in the process of drafting the RAHS.
- In 1.3.3, and 1.3.4 - There should be some mention of the fact that the RAHS acknowledges that there are also housing needs for people between 50% of MFI and 120% of MFI, and that many of the recommended tools address these needs, even though the housing production benchmarks do not.
- 1.3.5 should state more clearly that the 2000 census data will be used to evaluate the formula we used to set housing production goals and to revise the benchmarks as necessary.
- 1.3.6 - In the second to last sentence, for-profit developers and businesses should also be listed as potential partners.

- We have apparently lost from the RFP the section on page 7 that outlines the relationship of the affordable housing strategy to the existing land use requirements in the UGMFP. I think this section – or at least the first paragraph and the bullets – should be added back in.
- On page 8, we seem to have lost the statement that Metro could require land use tools. This should still be in the RFP in some form.
- In 1.3.6.A This section is very weak. The opening sentence needs to say “Metro *shall take the following actions*” rather than “may consider”. The list is already full of “consider” language rather than “adopt”. Also, the section on Metro financial impact does not reflect this work. That is a big problem. We also need in “n” a clear commitment to convene the RAHS Implementation Committee within a certain timeframe. “when appropriate” is too vague. This committee should meet quarterly starting in January.
- 1.3.6.B. Needs to say “Cities and Counties within the region *shall*” not “should”. Also, (c) in this section appears to imply that Metro is making a stronger recommendation on the adoption of non-land-use tools than land use tools by saying that that local jurisdictions should “implement” non-land use tools, but only that that they “consider” adding the land use tools to their Comp Plans. In (d), there needs to be language added to reflect the full reporting requirements in the RAHS pages 77,81,82 and Exhibit B’s page 6. Could say “Report amendments to Comprehensive Plans to bring the jurisdictions into compliance with the RFP requirements, changes to local policies relevant to affordable housing preservation and development and progress towards increasing the supply...”
- The struck language in E) on page 13 should be added to the list under 1.3.6.A.

In Exhibit B:

- We've lost the language about “housing densities and costs supportive of public policy for the development of the regional transportation systems and designated centers and corridors.” from the first paragraph. Should be reinserted.
- Also in the first paragraph, the last sentence needs to reflect the full reporting requirements as the second to last bullet under Exhibit A (“add Comprehensive Plan amendments, consideration of RAHS recommended tools” before “increasing the supply of affordable housing.” (as on page 6)
- In the second paragraph, we should reference the accessory dwelling unit requirements as well as min. density requirements.
- In 3.07.750 (pg 8) (A) should read “Metro Council, the RAHS Implementation Subcommittee, and MPAC shall review...”



December 7, 2000

To: Metro Council

From: Tasha Harmon, Community Development Network

Re: Ordinance 00-882 and Exhibits A and B, translating the recommendations of the Regional Affordable Housing Strategy into the Regional Framework Plan and the Urban Growth Management Functional Plan

TG

Non-profits developing
affordable housing and
revitalizing neighborhoods

I am unable to attend the Metro Council hearing today on Ordinance 00-882 and its Exhibits due to a previous engagement. As a member of the Affordable Housing Technical Advisory Committee (HTAC), I would like to take this opportunity to thank Council for their commitment to moving forward to formally adopt the language changes in the Regional Framework Plan and the Urban Growth Management Functional Plan required to implement the basic recommendations of the Regional Affordable Housing Strategy.

Generally Metro staff has done an excellent job of translating the recommendations of the RAHS into ordinance language. There were a few pieces of their original draft, as submitted to MTAC a couple of weeks ago, that appeared to myself and several other HTAC members to be an inaccurate or insufficient representation of the RAHS recommendations. In response to my comments, one important change was made by staff prior to this week's Growth Management Committee meeting; a sentence was added to 1.3.5 of Exhibit A, which states the goal of the affordable housing distribution method.

The Growth Management Committee made two other important amendments to the Ordinance before forwarding it to you. They agreed to add, as an appendix to the RFP, the methodology use by HTAC to establish the housing production goals. This, combined with the sentence added by staff (referenced above) will ensure that there is a clear record of the goals and methods used to set these production goals so that we don't end up arguing in 2003 about how we got there.

The Growth Management Committee also changed the lead sentence on 1.3.6.A, Metro Actions, to read "In order to address the region's affordable housing challenges, Metro ~~may~~ will consider the following actions". Staff acknowledged that "will" was indeed much more consistent with the intent of the RAHS, and that the "may" language had been inserted by staff to give Council more flexibility given budget constraints. The Committee unanimously supported making this change as a commitment to sticking with the RAHS intent. I hope that Metro Council will support these three changes.

There are two outstanding issues that I would ask Metro Council to consider in voting on the Ordinance and exhibits before you.

- 1) It was the intention of the RAHS, as I understand it, to require local jurisdiction to adopt the Housing Production Goals as voluntary targets. The current language in Exhibits A and B say that local jurisdictions "should" do so. This language should be "shall". The RAHS requires very little of local jurisdictions. It is a compromise document that we worked very hard on. I would hate to see it further watered down in this translation.
- 2) Metro Council should make a commitment to convene the RAHS Implementation Committee before 2003 (you could wait that long under the current letter "n" of RFP section 1.3.6). Implementation of this ordinance will bring up more questions that will require input from housing experts and concerned citizens. Metro Council should create an institutional structure for that input by creating a RAHS Implementation Committee that meets regularly (quarterly would probably work fine for the most part) to discuss housing implementation issues, monitor implementation, and put forward new recommendations as needed. This group should monitor Metro's actions regarding its affordable housing commitments as well as being part of the evaluation of information coming in from local jurisdictions. Of immediate concern is the creation of a way to review the affordable housing commitments and plans in the areas applying for inclusion in the UGB.

The Community Development Network looks forward to working with Metro Council and the local jurisdictions on implementation of the Regional Affordable Housing Strategy in the coming years. Please keep us informed of any Metro actions related to housing affordability. If you have any questions about my recommendations, I can be reached at (503) 335-9884 or tasha@cdnportland.org. Thank you for your commitment to addressing the affordable housing needs of the region.

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF ESTABLISHING A)	ORDINANCE NO. 00-887A	
PROCEDURE FOR REVIEW OF APPLICATIONS)		
FOR PROPERTY OWNER COMPENSATION)		
UNDER ARTICLE 1, SECTION 18 OF THE)	Introduced by <u>Metro Council Growth</u>	
CONSTITUTION OF OREGON (BALLOT)	<u>Management Committee</u> or Rod Park	
MEASURE 7 PASSED NOVEMBER 7, 2000))		
AND DECLARING AN EMERGENCY)		

WHEREAS, on November 7, 2000 the voters of the State of Oregon approved Ballot Measure 7 which amended Article 1, Section 18 of the Constitution of Oregon to require, under certain circumstances, payment to landowners if state or local government regulation reduces property value; and

WHEREAS, Ballot Measure 7 provides that a land owner, in order to receive compensation, must apply for compensation to the government whose regulation allegedly has caused a reduction in the fair market value of property; and

WHEREAS, the government has 90 days from such application to deny or pay the claim, or take action to remove the property from the application of the regulation; and

WHEREAS, Ballot Measure 7 does not set forth a specific process for review of applications for compensation; and

WHEREAS, it is in the best interests of affected governments to establish such a process in order to be able to assess and take action on such claims in a timely manner; now, therefore

THE METRO COUNCIL ORDAINS AS FOLLOWS:

Section 1. Chapter 2 Administration of the Metro Code is hereby amended to add Section 2.01.300 entitled REVIEW OF APPLICATIONS FOR PROPERTY OWNER COMPENSATION in Exhibit "A," attached and incorporated herein.

Section 2. Severability.

If any phrase, clause, or part of this ordinance is found to be invalid by a court of competent jurisdiction, the remaining phrases, clauses and parts shall remain in full force and effect.

Section 3. Emergency Clause and Effective date.

This Ordinance is necessary for the preservation of the health, safety, and welfare of the citizens of the region to prepare for claims for compensation based on the amendments to Article 1, Section 18 of the Constitution of Oregon from Ballot Measure 7, passed, November 7, 2000, which become effective on December 7, 2000. It is essential to have a process established for reviewing applications for compensation under the Constitution by the effective date of the amendment to provide an orderly review process for assessment and action on applications having a potential fiscal impact on the Metro Annual Budget. Therefore, an emergency exists and this Ordinance shall be in full force and effect, retroactively, on December 7, 2000.

ADOPTED by the Metro Council this ____ day of _____ 2000.

David Bragdon, Presiding Officer

ATTEST:

Approved as to Form:

Recording Secretary

Daniel B. Cooper, General Counsel

**Exhibit "A" of
Ordinance No. 00-887A**

2.01.300 Review of Applications for Variance or Compensation.

The purposes of this section are to accomplish the following regarding applications for compensation under Article 1, Section 18 of the Constitution of Oregon as amended by Ballot Measure 7, passed November 7, 2000 and effective December 7, 2000: Process claims quickly, openly, thoroughly, in a manner that is consistent with the Oregon and U.S. Constitutions; Enable persons with claims to have an adequate and fair opportunity to present them to the regional government; Preserve and protect limited public funds by making timely choices under the Constitution of Oregon; and, Establish a record of decision capable of appellate review. Notwithstanding any provision of this section, this application process shall comply with the Oregon Constitution and all applicable law.

2.01.310 Definitions.

The words used in this Article, that are the same as words used in Oregon Constitution Article I, Section 18, subsections (a) through (f), shall have the same meaning as the words used in those subsections of the Oregon Constitution, notwithstanding any different definition in this ordinance, the Metro Code, or any other Metro regulation.

Appraisal means an appraisal by an appraiser licensed by the Appraiser Certification and Licensure Board of the State of Oregon.

Exempt Regulation means: (a) a regulation which imposes regulation required under federal law, to the minimum extent required by federal law; or (b) a regulation prohibiting the use of a property for the purpose of selling pornography, performing nude dancing, selling alcoholic beverages or other controlled substances, or operating a casino or gaming parlor, or (c) a regulation governing historically and commonly recognized nuisance laws.

Property means any real property and any structure built or sited on the property, aggregate and other removable minerals, and any forest product or other crop grown on the property. It includes only a single parcel or contiguous parcels in single ownership. It does not include contiguous parcels or parcels not contiguous that are under different ownerships.

Property owner means a person or persons who are the sole fee simple owner of the property. For persons who share ownership of a property the property owner is a joint application by all owners whose interests add up to a fee simple interest in property (including all persons who represent all recorded interests in property, including co-owners, holders of less than fee simple interests, and leasehold owners, ~~and security interest holders~~).

Reduction in Value means difference in the fair market value of the property before and after application of the regulation, and shall include the net cost to the landowner of an affirmative obligation to protect, provide, or preserve wildlife habitat, natural areas, wetlands, ecosystems, scenery, open space, historical, archaeological or cultural resources, or low income housing.

Regulation means any law, rule, ordinance, resolution, goal or other enforceable enactment of Metro that restricts the use of private property.

Variance means a license issued by Metro pursuant to this ordinance relieving a property owner from the requirements of a Metro regulation which has been determined to reduce the value of the property.

2.01.320 Pre-application Conference.

A. Before submitting an application for variance or compensation, the applicant may schedule and attend a pre-application conference with the Executive Officer or his designee to discuss the application. The pre-application conference shall follow the procedure set forth by the Executive Officer and may include notice to neighbors and other organization and agencies.

B. To schedule a pre-application conference, the applicant must contact the Executive Officer. The pre-application conference is for the applicant to provide a summary of the applicant's application for variance or compensation to the Executive Officer and for the Executive Officer to provide information to the applicant about regulations that may effect the application. The Executive Officer may provide the applicant with a written summary of the pre-application conference within 10 days after it is held.

C. The Executive Officer is not authorized to settle any application for variance or compensation at a pre-application conference. Any omission or failure by staff to recite to an applicant all relevant applicable land use regulations will not constitute a waiver or admission by Metro.

2.01.330 Application for Variance or Compensation.

A. After a court ruling that Ballot Measure 7 is in effect, an owner of private real property may apply for a variance from a Metro regulation, whether in this ordinance, the Metro Code, or any other Metro regulation, if the owner believes that without a variance the owner is or will be entitled to compensation under Oregon Constitution Article I, Section 18, subsections (a) through (f). Alternatively, an owner of private real property who believes the owner is or will be entitled to compensation under Oregon Constitution Article I, Section 18, subsections (a) through (f), in relation to a Metro regulation, whether in this ordinance, the Metro Code, or any other Metro regulation, may apply for that compensation.

B. An application for variance or compensation shall be submitted for review upon completed application forms established and with the number of copies required by the Executive Officer. Unless waived by the Executive Officer, an application shall include at least the following information, to the extent such information may be required as a condition of acceptance of an application under Oregon Constitution Article I, Section 18, subsections (a) through (f):

(1) An application fee to be paid in advance of acceptance for filing to cover the costs of processing the application. The amount of this fee shall be established by resolution of the Metro Council. The application fee shall be refunded if Metro or an appellate body determines that the applicant is entitled to compensation under Oregon Constitution, Article I, Section 18, subsections (a) through (f).

(2) Identification of the name, physical address, street address, and phone number of the person filing the application for variance or compensation. If the person filing the application is not the property owner of the real property this information must also be provided for the fee simple property owner and authorization to act on behalf of the fee simple owner of the property of the person filing must be provided.

(3) A legal metes and bounds description or a description by street address and by map and assessor's tax lot number for each parcel of land that is the subject of the application. ~~A~~ and a description of adjacent lands owned by the same property owners. This description shall include a legal metes and bounds description or a county assessor's description of each parcel of land, that is either directly contiguous to the real property that is the subject of the application or is indirectly contiguous through contiguity with another parcel under the same ownership. The following shall be provided for each parcel:

(a) The date of acquisition of each such directly or indirectly contiguous parcel;

(b) Information showing the extent to which the owner has treated the real property, for which the owner is applying for compensation and the directly or indirectly contiguous parcels as a single economic unit. For example, use as a single unit in the purchase and financing of the land and in the owner's or owners' development of and economic planning for the land;

(c) Information showing the extent to which application of the subject regulation to the real property, as to which the owner is applying for compensation, enhances the value of the contiguous or indirectly contiguous parcels of land; and

(d) The amount of any compensation previously paid by a government under Oregon Constitution Article I, Section 18, subsections (a) through (f), in relation to each such parcel.

(4) Proof that the property allegedly affected by the regulation is in the exclusive fee simple ownership of the applicant or that the applicant has the consent of all owners, including co-owners ~~and all security interests~~ in the aggrieved parcel. The name, mailing address and telephone number of each owners of a legal, equitable or security interest, together with the signature of the applicant owner must be provided.

(5) A preliminary title report issued by a property title insurance company authorized to conduct business within the State of Oregon within 30 days prior to the application date, insuring to Metro that the applicant is the property owner. Such report shall include title history and including a statement of the date the applicant acquired ownership of the property and showing the ownership interests of all owners of the property.

(6) The Metro regulation that is the basis for the application for a variance or compensation, including the number of the ordinance or code section, date the regulation was first applied or first enforced on the subject property. If more than one regulation is alleged to restrict the use of the property, all claims regarding that property must be filed simultaneously.

(7) A written statement ~~addressing the approval criteria~~ that explains how Metro's regulation restricts the use of private real property and how the regulation has the effect of reducing the value of the property upon which the restriction is imposed. If based on adoption of the regulation, the date of adoption of the regulation. If based on first enforcement of the regulation, the date and manner of first enforcement and any documentation establishing the date and manner of first enforcement. If based on application of the regulation, the date and manner of application and any documentation establishing the date and manner of application.

(8) A copy of a written appraisal prepared and signed by an appraiser, certified or licensed under Oregon law to perform an appraisal of real property. The appraisal shall state the fair market value of the property before and after application of the regulation and the evidence on which the appraiser's opinion is based on the date of the valuation and the year used for the value of the dollar in the appraisal. If the claimed reduction in fair market value of the property is based on an alleged net cost to the landowner of an affirmative obligation to protect, provide, or preserve wildlife habitat, natural areas, wetlands, ecosystems, scenery, open space, historical, archaeological or cultural resources or low income housing the appraisal shall establish that net cost.

(9) A statement by the applicant of why the reasons for a reduction in the value of the property are not within in Article 1, Section 18 (b) (adoption or enforcement of historically and commonly recognized nuisance laws) and (c) (implementation of a requirement of federal law and regulation of selling pornography, performing nude dancing, selling of alcoholic beverages or other controlled substances, or operating of casino or gaming parlors) of the Constitution of Oregon do not apply.

(10) A statement of the relief sought by the applicant, including the amount the owner claims as compensation in the event a variance from the regulation is or is not granted.

C. The applicant may request an extension for filing a complete application for a continuance of review of a complete application. A request for extension or continuance shall be deemed a waiver of the 90-day deadline contained in Section 18, Article 1, of the Oregon Constitution and this Article for the period of the extension or continuance.

D. The Executive Officer shall conduct a review within 15 days after submittal of the proposed application to determine whether it is complete and ready for filing.

(1) If the Executive Officer determines the application is not complete, notice shall be given, within that 15 day period, to the applying owner in writing of exactly what additional information is necessary to make the application complete and ready for filing. If the Executive Officer believes there is doubt, under Oregon Constitution Article I, Section 18, subsections (a) through (f), as to whether the additional information can be required as a condition of acceptance of filing of the application, the Executive Officer also may notify the applying owner in writing that although the Executive Officer considers the application not complete and ready for filing, the Executive Officer nevertheless will proceed to process the application if the additional information is not supplied by a date set by the Executive Officer, not to exceed 20 days after the date of the notification. The application shall be deemed complete and filed as of the date of receipt of the additional information, except that if the applying owner does not supply the additional information by the date set by the Executive Officer, then the application shall be deemed complete for purposes of filing as of the date of its tender to the Executive Officer.

(2) If the Executive Officer determines the application is complete as initially filed, or if notice of the application's incompleteness has not been mailed to the applying owner within the required 15 day period, then the application shall be deemed complete for filing as of the date of its tender to the Executive Officer.

(3) The Executive Officer shall note in writing on the face of the application the date on which the application is deemed complete.

2.01.340 Process of Review of Application for Variance or Compensation.

A. The Executive Officer shall assess any application for variance or compensation that is deemed complete and make a recommendation to the Metro Council on the disposition of the application for compensation. The Executive Officer may recommend denial of an application that does not comply with the requirements for an application without a public~~public~~-evidentiary hearing.

B. Before a request for variance or compensation can be approved, notice of the application for variance or compensation shall be provided in accordance with the provisions of subsections EF and FG of this section and a legislative~~legislative~~-evidentiary hearing shall be conducted. The Executive Officer may~~shall~~ conduct a public~~public~~-evidentiary hearing unless the Metro Council takes action to cause the initial public~~initial public~~-evidentiary hearing to be scheduled before the full Council.

C. The Executive Officer or the Metro Council shall hold a legislative public hearing on a complete~~complete~~ the application for variance or compensation. Where the Executive Officer recommends denial without conducting a public~~public~~-evidentiary hearing, the Metro Council may~~shall~~ conduct a public hearing on the recommendation on their regular meeting agenda. Where an initial public~~initial public~~-evidentiary hearing has been conducted by the Executive Officer, notice of the Metro Council's public hearing on the Executive Officer's recommendations may~~shall~~ be given at the initial public hearing and held on the regular~~regular~~ Metro Council agenda.

D. The Executive Officer shall make a recommendation to the Metro Council based on all of the information presented. The recommendation to the Metro Council shall include consideration of:

(1) Whether a variance is necessary to avoid the owner or owners being entitled to compensation under Oregon Constitution Article I, Section 18, subsections (a) through (f); and

(2) If so, the extent of the variance needed to avoid the owner or owners being entitled to such compensation; and

(3) The amount of compensation to which the owner or owners would be entitled with and without a variance.

If the Executive Officer determines that a variance is needed to avoid the owner or owners being entitled to compensation, the Executive Officer shall compare the public benefits from application of the regulation to the owner's or owners' real property to the public burden of paying the required compensation to the owner or owners if a variance is not granted, taking into consideration the financial resources of Metro for the payment of such claims. Based on this comparison, the Executive Officer shall prepare a written report to the Metro Council stating, as appropriate, the determinations, the result of its comparison, and the evidence on which they are based. If the Executive Officer has determined that a variance is needed to avoid the owner or owners being entitled to compensation, the report also shall make a recommendation either to grant a variance that will avoid the owner or owners being entitled to compensation; grant a variance that will not avoid but will reduce the compensation to which the owner is, or owners are, entitled and pay the reduced compensation; or deny a variance and pay the required compensation. The Executive Officer shall provide the written report to the Metro Council for consideration-final action.

E. Notice of a public~~public~~~~evidentiary~~ hearing on an application for variance or compensation shall be by mailed notice at least 10 days in advance of the initial public hearing date provided to the applicant and to owners of record of property on the most recent property tax assessment roll where such property is located within one hundred feet (100') of the property which is the subject of the notice. Additional mailed notice shall be sent to Oregon Department of Land Conservation and Development, Oregon Department of Justice and such others as the Metro Council may designate by resolution.

F. The notice of an initial public~~evidentiary~~ hearing under this Section shall:

(1) Explain the nature of the application and the variance or compensation sought and the Regulation that causes the compensation to be alleged to be due.

(2) Set forth the street address or other easily understood geographical reference to the subject property;

(3) State the date written comments are due or, if a hearing has been requested, the date, time and location of the hearing;

(4) Include the name of a Metro representative to contact and the telephone number where additional information may be obtained;

(5) State that a copy of the application and all documents submitted by the applicant are available for inspection at no cost and that copies will be provided at reasonable cost; and

(6) Include a general explanation of the requirements for submission of written comments or, if a hearing is to be held, the requirements for submission of testimony and evidence and the procedure for conduct of hearings.

(7) State the consideration~~criteria~~ for the Metro Council decision in Metro Code 2.01.345.

G. The Executive Officer may, in the Executive Officer's discretion, retain the services of an appraiser to appraise the ~~P~~property and the application for compensation, for the purposes of determining whether or not the cited regulation has had the effect of reducing the fair market value of the ~~P~~property and for other purposes relevant to the application.

H. The initial public~~evidentiary~~ hearing shall be conducted as follows:

(1) All documents or evidence relied upon by the applicant shall be submitted to the Executive Officer or Metro Council as a part of the application. Persons other than the applicant may submit documents or evidence at the hearing.

(2) Any staff report used at the hearing shall be available at least seven days prior to the hearing.

~~—— (3) When the Executive Officer or Metro Council reopens a record to admit new evidence or testimony, any person may raise new issues, which relate to the new evidence, testimony or criteria for decision making which apply to the matter at issue.~~

~~(34)~~ The failure of a person entitled to notice to receive notice as provided in this section shall not invalidate such proceedings if a demonstration by affidavit that such notice was given is included in the record. The notice provisions of this section shall not restrict the giving of notice by other means, including posting, newspaper publication, radio and television.

I. Within 10 days from the date of the close of the period for written comments or the conclusion of the initial public~~evidentiary~~ hearing, the Executive Officer shall make a recommendation to the Metro Council as to whether compensation shall be paid, the amount of compensation to be paid, and whether one or more specific variances to regulations should be adopted as to the property for which compensation was sought.

——— A copy of the Executive Officers recommendation and date, time, and place of the Metro Council meeting at which the recommendation will be reviewed shall be sent, via first class mail, not less than seven days before the Metro Council meeting to the applicant and to each party which provided written comments and/or participated in the Executive Officer's hearing and provided a mailing address to the Executive Officer as part of the hearing process.

J. Review by the Metro Council shall ~~include~~ be on the record of the Executive Officer recommendation ~~under the testimony at any initial public evidentiary hearing, including the Executive Officer report.~~ All documents or evidence relied on before the Metro Council shall have been submitted as part of Executive Officer's review or the hearing. Following the Metro Council deliberations to apply the decision ~~considerations~~ criteria, the Office of General Counsel shall prepare a written order or ordinance, based on the Council deliberations, for Metro Council adoption. The final order or ordinance ~~may~~ shall include ~~legislative~~ the findings and conclusions based on the Council review and, if the Council preliminarily determined that a variance should be granted or compensation should be paid, or both, the extent of the variance granted or of the amount of the compensation to be paid, or both. The written order or ordinance shall be presented to the Metro Council for a final decision. The written order or ordinance and any staff report to be used at the Metro Council shall be available at least four days prior to the Metro Council meeting to take final action. The Metro Council ~~may~~ shall allow written and/or oral arguments based on evidence in the record of the Executive Officers review and the hearing to be made by the applicant and any party entitled to receive notice of the Metro Council review.

2.01.345 Criteria For Metro Council's Decision Considerations.

A. The Metro Council's legislative decision shall be based on the following considerations ~~criteria that shall be interpreted to be in a manner consistent with Article I, Section 18, subsections (a) – (f) of the Oregon Constitution.~~ These considerations shall be applied in a manner consistent with the Oregon Constitution and all applicable law.

(1) The application is sufficient for a claim under Article I, Section 18, subsections (a) – (f) complete;

(2) The applicant is a qualifying property owner as follows:

a. The subject property is located within Metro and is subject to the ordinance and regulation, which is the basis of the application for claim;

b. The use, which the applicant alleges is restricted, is so restricted under a Metro regulation and does not constitute an exempt regulation; and

c. The property owner as shown on the application was the owner of the property prior to the date the regulation was adopted, first enforced or applied, which is the basis of the application for claim; and

——— d. There is substantial evidence to support the applicant's claim of reduction in value of the subject property;

(3) The cited regulation(s) caused a the reduction in the value of the subject property and thus entitles the property owner to compensation or variance of the regulation.

~~(4) The property owner is or will be entitled to compensation under Oregon Constitution Article I, Section 18, subsections (a) through (f) if Metro grants a variance from the regulation;~~

~~(45) The amount of just compensation due with or without a variance from the regulation; and~~

~~(56) A comparison of the public benefits from application of the regulation to the owner's private real property to the public burden of paying the required compensation to the owner if a variance is not granted, taking into consideration the financial resources of Metro for the payment of such claims as follows:~~

a. If the Metro Council finds that the public burden of paying the required compensation, taking into consideration Metro's financial resources for the payment of such claims, is sufficient to justify sacrificing the public benefits from application of the regulation to the owner's or owners' private real property, the Metro Council may grant a variance from the specified regulation to the extent necessary to avoid the owner or owners being entitled to compensation;

b. If the Metro Council finds that the public benefits from application of the regulation to the owner's or owners' private real property are sufficient to justify the public burden of paying the required compensation, taking into consideration Metro's financial resources for the payment of such claims, the Metro Council may deny a variance from the specified regulation and identify a specified amount of compensation to be paid; or

c. If the Metro Council finds that some of the public benefits from application of the regulation to the owner's or owners' private real property are sufficient to justify the public burden of paying some of the required compensation, taking into consideration Metro's financial resources for the payment of such claims, but that other of the public benefits are not sufficient to justify the public burden of paying the balance of the required compensation, taking into consideration Metro's financial resources for the payment of such claims, the Metro Council may grant a variance to the limited extent necessary to avoid unjustified compensation and identify the amount of compensation to be paid as to that part of the regulation as to which a variance is not granted.

B. ~~Actions~~ the Metro Council may take include, but are not limited to: ~~shall, by majority vote of those present and voting, determine whether granting or denying a variance and/or whether a the regulation should be deemed not to apply to the applicant's property, compensation, is granted, the amount of any compensation, whether any conditions to the compensation should apply or such whether some other action as the Council deems is appropriate, including actions such as deciding to acquire the subject property by condemnation.~~

2.01.350 Variance From Metro Regulation.

A. There is hereby established a Metro variance, which provides relief from one or specified Metro regulations found by the Metro Council to reduce the value of an ~~A~~applicant's ~~R~~real ~~P~~roperty. Such variance shall have the following characteristics:

- (1) It shall be issued only to an applicant pursuant to the process set forth in this Section;
- ~~(2) It shall be personal to the owner and nontransferable. The variance shall expire upon the owner's death or the expiration or termination of a business or corporate owner;~~
- ~~(3) It shall remain effective so long as the applicant owns the property in the same manner and degree as was owned at the time the claim was allowed by Metro;~~
- (42) Such variance shall be presented to Metro as part of any application for development of the subject property for which it is claimed.
- ~~(53) It shall be revoked if the amendments to Article I, Section 18 of the Constitution of Oregon as amended by Ballot Measure 7, passed November 7, 2000, is held to be invalid or repealed.~~

B. The Office of General Counsel is authorized to prepare an appropriate form of variance as part of the final Metro Council order or ordinance under this Section.

2.01.355 Conditions of Approval, Revocation of Decision and Transfer of Approval Rights.

- A. The Metro Council may establish any relevant conditions of approval of a variance or of compensation, should a variance or compensation be granted.
- B. Failure to comply with any condition for a variance for compensation shall be grounds for revocation of the approval of the application for variance or compensation and grounds for recovering any compensation paid.
- C. In the event an applicant fails to fully comply with all conditions of approval or otherwise does not comply fully with Metro's approval, Metro may institute a revocation or modification proceeding under this Section.

2.01.360 Payment Recipient and Condition.

A. Any Metro payment of compensation under this Section shall be to the owner or owners in proportion to their ownership interests in the private real property as to which a variance or compensation was applied for. If there is a dispute among~~unt~~ owners as to their proportional interests in the private real property, or if Metro otherwise deems it appropriate, Metro shall make the payment to an escrow agent in trust for the benefit of the owners, for distribution to the owners based on their proportional interests as soon as the owners have resolved their dispute or

agreed on the appropriate distribution. Any Metro payment shall be conditional on the owner providing an updated title report insuring to Metro the current owners of all legal, equitable, and security interests in the private real property.

B. If the Metro Council grants a variance or limited variance as a means to avoid having to compensate, or as a means to limit compensation to, an owner or owners under Oregon Constitution Article I, Section 18, subsections (a) through (h), and if, based on a subsequent appellate court interpretation or invalidation of Oregon Constitution Article I, Section 18, subsections (a) through (h), in the same or another case, the applying owner was not entitled to compensation in relation to the regulation from which the variance was granted, then the variance or limited variance shall be deemed to have been invalid and ineffective as of and after the date of the Metro Council's order granting the variance or limited variance. Any such invalidity and ineffectiveness shall be limited as necessary to avoid the Metro being required to compensate the owner under Oregon Constitution Article I, Section 18, subsections (a) through (f).

C. Any Metro payment of compensation to an owner under this Section may be conditional on the owner's signing an agreement, in a form acceptable to Metro, that, if an appellate court subsequently interprets or invalidates Oregon Constitution Article I, Section 18, subsections (a) through (h), in the same or another case, in a manner such that the applying owner was not entitled to compensation in relation to the subject regulation, then the owner will repay the compensation received by the owner to Metro, with the repayment obligation being a lien against the private real property until paid.

2.01.370 Notice of Decision.

Not less than seven days after the Metro Council adopts the final order or ordinance a copy of the Metro Council decision shall be sent, via first class mail, to the applicant and to each party which participated in the Executive Officer or Metro Council review process provided the party provided a mailing address to Metro as part of the review process.

2.01.375 ~~Ex Parte Contacts, Conflict of Interest and Bias.~~

~~———— The following rules govern any challenges to the recommending Executive Officer's or Metro Councilor's participation in review/recommendation or hearing of applications for compensation:~~

~~A. Any factual information obtained by the recommending Executive Officer or a Metro Councilor outside of information provided by Metro staff and outside of the context of formal written comments or hearing will be deemed an ex parte contact. Prior to the close of the record the recommending Executive Officer or a Metro Councilor that has obtained any material factual information through an ex parte contact must declare the content of that contact and allow any interested party to rebut the substance of that contact. This rule does not apply to contacts between Metro staff and the recommending Executive Officer or a Metro Councilor.~~

~~B. Whenever the recommending Executive Officer or a Metro Councilor, or any member of their immediate family or household, has a financial interest in the outcome of a particular compensation matter that recommending Executive Officer or Metro Councilor must not participate in the deliberation or decision on that matter.~~

~~C. All decisions in compensation matters must be fair, impartial and based on the applicable review standards and the evidence in the record. Any recommending Executive Officer or Metro Councilor who is unable to render a decision on this basis in any matter must refrain from participating in the deliberation or decision on that matter.~~

2.01.380 Attorney Fees On Delayed Compensation.

If a claim for compensation under Section 18, Article I, of the Oregon Constitution and this is denied or not fully paid within 90 days of the date of filing a completed application, Applicant's reasonable attorney fees and expenses necessary to collect the compensation will be added as additional compensation provided compensation is awarded to Applicant. If a claim for compensation under Article 1, Section 18 of the Constitution of Oregon and this Article is denied or not fully paid within 90 days of the date of filing, and the Applicant commences suit or action to collect compensation, if Metro is the prevailing party in such action, then Metro shall be entitled to any sum which a court, including any appellate court, may adjudge reasonable as attorney's fees. In the event the prevailing party is represented by "in-house" counsel, the prevailing party shall nevertheless be entitled to recover reasonable attorney fees based upon the reasonable time incurred and the attorney fee rates and charges reasonably and generally accepted in the region for the type of legal services performed.

2.01.385 Availability of Funds to Pay Claims.

Compensation can only be paid based on the availability and appropriation of funds for this purpose.

BUDGET AND FINANCE COMMITTEE REPORT

CONSIDERATION OF **RESOLUTION NO. 00-3010A**, FOR THE PURPOSE OF ADOPTING THE CAPITAL IMPROVEMENT PLAN FOR FISCAL YEARS 2001-02 THROUGH 2005-08

Date: December 7, 2000

Presented by: Councilor McLain

Committee Recommendation: At its November 29, 2000, meeting, the Budget and Finance Committee voted 3-0 to recommend Council adoption of Resolution No. 00-3010. Voting in favor: Councilors McLain, Washington, Park, and Bragdon. Voting against: none. Absent: Councilors Atherton, Kvistad, and Monroe.

Background: Karen Fehrer, Capital Improvement Projects Coordinator, presented the staff report. She described the placement of the Capital Improvement Plan (CIP) process in the overall budget and review cycle. She reminded Councilors that the goals of the CIP include forecasting the capital needs of the agency; reviewing and considering all proposed capital projects at the same time; comparing needs with available resources; and identifying projects to incorporate into the proposed FY 2001-02 budget.

This is the fifth annual CIP, and includes 97 projects totaling over \$160 million. Two primary projects account for over 75% of the total capital expenditures for the next five years: the Oregon Convention Center Expansion, and the Open Spaces Acquisition Program. Ten projects exceed \$1 million each: Zoo (Great Northwest Project, Lion Exhibit, Primates Building); Regional Parks (M. James Gleason Boat Ramp, Oxbow Park Diack Nature Center) and REM (Metro Central Roof Vent System Replacement, Perimeter Dike Stabilization, Leachate Pretreatment, Reserve for Future Master Facility Plan Improvements, and Reserve for Future Renewal and Replacement Projects).

Committee Issues/Discussion: The following questions and responses (*in italics*) were delivered at the meeting:

Administrative Services

- Does the Capital Assets Inventory reflect actual replacement date or rehabilitation costs, and is there a set-aside account to maintain these structures? *The inventory data may be somewhat out of date and will be corrected to reflect projected replacement costs. That date would be the expiration of the bonds issued to complete the original remodel, 2033. It should be noted that there might be component needs prior to that date such as a roof, HVAC etc. There is a renewal and replacement reserve within the General Revenue Bond Fund with a current balance of \$534,000 for that purpose.*

MERC

- Arlene Schnitzer Concert Hall West Entry remodel: this property is on the National Historic Register of Historic Places. Historic preservation code standards usually apply to exterior construction or rehabilitation – will this be addressed? *The proposed work will address problems associated with rehabilitation done in 1987. Most improvements are street work done by the City of Portland. Staff will check to be sure that appropriate code standards apply.*
- What is the payback period for stage lights? *This project addresses deferred capital issues, and, as such is not considered a strict Return-on-Investment (ROI) project. The existing old lights have reached the end of their life expectancy, and represent safety and operating issues. Staff are pursuing a rebate from PGE because the new lights are significantly more energy efficient than the old.*

Oregon Zoo

- Why are there no projects listed after 2003-04? Is there a repair/replace/renovation schedule for facilities? *There is a 25-year master plan which includes repair and replacement schedules. A copy will be forwarded to the council analyst. Attached the resolution as an exhibit is an updated listing of Zoo projects not previously included for the years 2004-05 and 2005-2006. Full documentation of those projects will be included in the Adopted CIP.*
- The Great Northwest Project has expenditures listed through 2003-04, but Phase IV is scheduled to end in 2004-05. Is there a reason this hasn't been included in the CIP? *It was an oversight not to include it. The correction will be made prior to the budget being submitted to Council for review in February 2001.*
- "Grants" is listed as a source of funding for some of the capital projects. Who is the granting agency? *This term refers to Donations and Grants. Donations come from individuals, and grants from agencies. This line item will be broken out or labeled correctly in future documents.*

Regional Parks

- What is the life expectancy of the new drainfield at Oxbow Park? *The life expectancy of the drainfield is estimated to be 20 years.*
- Explain why the \$242,000 grant for Howell shows up as Oxbow Picnic Shelter expenditure? *This is a coincidence. The \$242,000 for Howell is included in the \$785,324 total, and there is a separate \$242,000 project for the Oxbow Picnic Shelter.*

REM

- How do you determine the reserve for Master Facility Improvements? *The amount set in the Master Facility Plan improvements is based on a historical average of previous General Account – CIP expenditures.*
- Does staff have any indication whether the scheduled review of renewal and replacement needs will result in an increase or decrease in the annual contribution to the renewal and replacement account? *No.*
- What is the basis for the estimated cost of the leachate pretreatment project at St. John's Landfill? *The estimated cost is based on an internal estimate for construction of a physicochemical treatment facility with a capacity of 5,000 gal/day, capable of removing both organic and inorganic compounds to a level that will permit discharge into a public sewage treatment facility.*
- Why do the costs for the household hazardous waste project at Metro Central go up from \$655,00 to \$926,000? *The majority of the increase is due to installation of an ergonomic flammable waste processing line.*
- Is REM coordinating with Parks to insure that the work done on the landfill and on the dam removal is compatible? *Parks and REM are working closely on these projects and anticipate no damage to either area.*

Information Technology

- There are four modules of PeopleSoft not yet installed. Is this still being planned for future implementation? *The work, which could be accomplished by the software, is still being done manually or is not being done at all, due to staff and financial restraints.*

There was no further discussion.

Administrative Services Department

Capital Projects Summary - by Year

Priority No.		FY 2001-2002	FY 2002-03	FY 2003-04	FY 2004-05	FY 2005-06	Total for this 5 yr Planning Window
	Support Services Fund						
1	Fire Alarm Replacement	\$60,000	\$0	\$0	\$0	\$0	\$60,000
2	Copier Replacement in Print Shop	55,000	0	50,000	0	0	105,000
	Total - Support Services Fund	\$115,000	\$0	\$50,000	\$0	\$0	\$165,000
	Total Department	\$115,000	\$0	\$50,000	\$0	\$0	\$165,000

Information Technology Department

Capital Projects Summary - by Year

Priority No.		FY 2001-2002	FY 2002-03	FY 2003-04	FY 2004-05	FY 2005-06	Total for this 5 yr Planning Window
	All Operating Funds						
1	Replace/Acquire Desktop Computers	\$150,000	\$150,000	\$150,000	\$150,000	\$150,000	\$750,000
	Total - All Operating Funds	\$150,000	\$150,000	\$150,000	\$150,000	\$150,000	\$750,000
	Support Services Fund						
1	Upgrade Network and Desktop Software	\$95,000	\$204,000	\$0	\$100,000	\$0	\$399,000
2	Convert Dbase for Enterprise Financial & HR Systems	100,000	0	0	0	0	100,000
3	Upgrade PeopleSoft Hardware	165,000	0	210,000	0	220,000	595,000
4	Upgrade Network Infrastructure	80,000	55,000	0	80,000	55,000	270,000
5	Replace Servers	60,000	0	0	60,000	0	120,000
	Total - Support Services Fund	\$500,000	\$259,000	\$210,000	\$240,000	\$275,000	\$1,484,000
1	Regional Land Information System (RLIS)	\$0	\$225,000	\$0	\$225,000	\$0	\$450,000
2	Travel Forecasting System	0	115,000	0	125,000	0	240,000
	Total - Planning Fund	\$0	\$340,000	\$0	\$350,000	\$0	\$690,000
	Total Information Technology Projects	\$650,000	\$749,000	\$360,000	\$740,000	\$425,000	\$2,924,000

Metropolitan Exposition-Recreation Commission

Capital Projects Summary - by Year

Priority No.		FY 2001-2002	FY 2002-03	FY 2003-04	FY 2004-05	FY 2005-06	Total for this 5 yr Planning Window
1	Convention Center Project Capital Fund						
	Oregon Convention Center - Expansion	\$64,000,000	\$33,850,000	\$0	\$0	\$0	\$97,850,000
	Total - Convention Center Project Fund	\$64,000,000	\$33,850,000	\$0	\$0	\$0	\$97,850,000
	MERC Operating Fund						
	Oregon Convention Center						
1	Systems Upgrade & Expansion (HVAC)	\$300,000	\$0	\$0	\$0	\$0	\$300,000
2	Lobby Furniture	\$200,000	\$0	\$0	\$0	\$0	200,000
	Sub-Total - OCC	\$500,000	\$0	\$0	\$0	\$0	\$500,000
	PCPA						
1	ASCH - West Entry Remodel	\$125,000	\$0	\$0	\$0	\$0	\$125,000
2	ASCH - Elevator Code Compliance	\$90,000	\$0	\$0	\$0	\$0	90,000
3	ASCH - Sound System Replacement	\$500,000	\$0	\$0	\$0	\$0	500,000
4	ASCH - Pit Elevator Replacement	\$80,000	\$0	\$0	\$0	\$0	80,000
5	ASCH - Balcony Level Safety Railing	\$0	\$0	\$75,000	\$0	\$0	75,000
6	ASCH - Carpet	\$0	\$0	\$0	\$300,000	\$0	300,000
7	ASCH - Reupholster Seats	\$0	\$0	\$0	\$0	\$200,000	200,000
1	Keller - Restroom Expansion	\$275,000	\$0	\$0	\$0	\$0	275,000
2	Keller - Rehearsal Hall Modernization	\$150,000	\$0	\$0	\$0	\$0	150,000
3	Keller - Exterior Signage	\$100,000	\$0	\$0	\$0	\$0	100,000
4	Keller - HVAC Control Replacement	\$80,000	\$0	\$0	\$0	\$0	80,000
5	Keller - Elevator Code Compliance	\$90,000	\$0	\$0	\$0	\$0	90,000
6	Keller - Ceiling Painting	\$240,000	\$0	\$0	\$0	\$0	240,000
7	Keller - Chiller Replacement	\$0	\$0	\$0	\$0	\$200,000	200,000
1	NTB - Stage Floor Replacement	\$100,000	\$0	\$0	\$0	\$0	100,000
2	NTB - Stage Lighting	\$80,000	\$0	\$0	\$0	\$0	80,000
3	NTB - Sound System Replacement	\$75,000	\$0	\$0	\$0	\$0	75,000
4	NTB - Elevator Code Compliance	\$90,000	\$0	\$0	\$0	\$0	90,000
5	NTB - Carpet Replacement	\$455,000	\$95,000	\$0	\$0	\$0	550,000
6	NTB - Replace Seats (Winningstad)	\$0	\$0	\$85,000	\$0	\$0	85,000
7	NTB - Reupholster Newmark Seating	\$0	\$0	\$0	\$0	\$55,000	55,000
	Sub-Total - PCPA	\$2,530,000	\$95,000	\$160,000	\$300,000	\$455,000	\$3,540,000
	Total - MERC Operating Fund	\$3,030,000	\$95,000	\$160,000	\$300,000	\$455,000	\$4,040,000
	Total MERC	\$67,030,000	\$33,945,000	\$160,000	\$300,000	\$455,000	\$101,890,000

Oregon Zoo

Capital Projects Summary - by Year

Priority No.		FY 2001-2002	FY 2002-03	FY 2003-04	FY 2004-05	2005-06	Total
	Zoo Capital Fund						
1	Great Northwest Project	\$1,000,000	\$1,000,000	\$1,707,862	\$0	\$0	\$3,707,862
2	Lion Exhibit	0	1,900,000	0	0	0	1,900,000
3	Wallaby Walk-Through	0	75,000	0	0	0	75,000
4	Insect Zoo	125,000	0	0	0	0	125,000
5	Primates Building	250,000	0	1,496,000	0	0	1,746,000
6	Polar Bears West	199,500	0	0	0	0	199,500
7	Musk Ox Fencing	83,500	0	0	0	0	83,500
8	Rain Forest Exterior	60,800	0	0	0	0	60,800
9	Treetops Railings and Siding	0	122,000	0	0	0	122,000
10	AfriCafe Interior Refurbishment	0	162,000	0	0	0	162,000
11	Reroof Hippo/Rhino Barn	50,000	0	0	0	0	50,000
12	Elephant Museum Exhibit	0	83,100	0	0	0	83,100
13	Refurbish Tree Tops Area	0	0	0	400,000	0	400,000
14	Wolf Yard Renovations	0	0	0	75,000	0	75,000
15	Masai Hut and Pygmy Goat Barn	0	0	0	70,000	0	70,000
16	Elephant Walls/Structural Upgrade	0	0	0	100,000	0	100,000
17	Refurbish Quarantine Building	0	0	0	0	120,000	120,000
18	Administration Building upgrades	0	0	0	0	135,000	135,000
19	Asphalt Roads/Repair and Replacement	0	0	0	0	200,000	200,000
20	Elephant Electrical Upgrades	0	0	0	0	75,000	75,000
21	Elephant Museum Re-roof	0	0	0	0	100,000	100,000
22	Steller Cove Upgrades	0	0	0	0	100,000	100,000
23							
	Total - Zoo Capital Fund	\$1,768,800	\$3,342,100	\$3,203,862	\$645,000	\$730,000	\$9,689,762
	Total Department	\$1,768,800	\$3,342,100	\$3,203,862	\$645,000	\$730,000	\$9,689,762

Regional Environmental Management Department

Capital Projects Summary - by Year

Priority No.		FY 2001-2002	FY 2002-03	FY 2003-04	FY 2004-05	FY 2005-06	Total for this 5 yr Planning Window
	Solid Waste Revenue Fund						
	General Account						
1	MC - Expansion of Haz. Waste Fac.	\$811,000	\$0	\$0	\$0	\$0	\$811,000
2	MS - Public Unloading Area	243,147	0	0	0	0	243,147
3	MS - Maintenance Facility	0	50,000	303,000	0	0	353,000
4	MC - Structural Modifications	214,020	310,381	0	0	0	524,401
5	MS - Northern Tip Floor Renovation	0	89,471	473,767	0	0	563,238
6	MS- Install High Capacity Baler	0	123,923	701,881	0	0	825,804
7	MS- Install Directional Signs	80,388	0	0	0	0	80,388
8	MC- Install New Scale at "A"	204,624	0	0	0	0	204,624
9	MC-Install New Scale at "C"	0	0	204,624	0	0	204,624
10	MC - Woodroom Improvements	0	25,474	200,343	0	0	225,817
11	MC - Office Addition	200,000	0	0	0	0	200,000
12	MS -Office & Facilities Improvements	0	76,003	616,482	0	0	692,485
13	MC - Expand Metals Stg./Loadout Area	0	0	0	51,365	410,918	462,283
14	Future MFP Improvements	0	0	0	888,235	631,082	1,519,317
	Total - General Account	\$1,753,179	\$675,252	\$2,500,097	\$939,600	\$1,042,000	\$6,910,128
	Renewal & Replacement Account						
1	MS-Replace Inbound Scale	\$177,167	\$0	\$0	\$0	\$0	\$177,167
2	MC - Equipment Improvements	334,707	0	0	0	0	334,707
3	MC - Replace Metal Roof/Vent Sys.	289,800	1,468,073	1,064,462	0	0	2,822,335
4	MS & MC Computer Network	0	0	132,797	0	0	132,797
5	MC - Replace Compactor#3 Conveyor	0	384,204	0	0	0	384,204
6	MC - Replace Compactor#2 Conveyor	0	0	0	0	384,204	384,204
7	MS - Repair Commercial Tip Floor	0	0	197,630	0	0	197,630
8	MS - Replace Metal Siding	0	224,147	0	0	0	224,147
9	MC - Woodline	31,000	303,178	0	0	0	334,178
10	Future R&R Projects	0	0	0	522,000	522,000	1,044,000
	Total - Renewal & Replac. Account	\$832,674	\$2,379,602	\$1,394,889	\$522,000	\$906,204	\$6,035,369
	Landfill Closure Account						
1	St. Johns- Perimeter Dike Stabilization	\$537,660	\$276,540	\$78,300	\$78,300	\$78,300	\$1,049,100
2	St. Johns- Re-establish Drainage	180,000	0	0	0	0	180,000
3	St. Johns - Leachate Pretreatment	100,000	1,125,000	0	0	0	1,225,000
4	St. Johns-Groundwater Monitoring Wells	52,200	0	0	0	0	52,200
5	St. Johns - Maintenance Building	525,000	10,000	0	0	0	535,000
6	St. Johns - Native Vegetation	7,517	115,571	232,186	232,186	232,186	819,646
	Total - Landfill Closure Account	\$1,402,377	\$1,527,111	\$310,486	\$310,486	\$310,486	\$3,860,946
	Total Department	\$3,988,230	\$4,581,965	\$4,205,472	\$1,772,086	\$2,258,690	\$16,806,443

Regional Parks and Greenspaces Department

Capital Projects Summary - by Year

Priority No.		FY 2001-02	FY 2002-03	FY 2003-04	FY 2004-05	FY 2005-06	Total for this 5 yr Planning Window
	Regional Parks Fund						
1	M. James Gleason Boat Ramp Renovation	\$404,000	\$1,013,000	\$912,000	\$0	\$0	\$2,329,000
2	Howell Territorial Park - Phase I and II Improvements	785,324	0	0	0	0	785,324
4	Oxbow Park - Picnic Shelters	242,000	0	0	0	0	242,000
6	Blue Lake Park - Eastside Wetlands Enhancement	168,311	0	0	0	0	168,311
8	Howell Territorial Park - Wildlife Interpretive Trail	0	0	171,500	0	0	171,500
9	Ancient Forest Preserve Interior Trail and Parking	149,451	0	0	0	0	149,451
n/a	Glendoveer Golf Course Contract Projects	400,000	0	0	0	0	400,000
	Total - Regional Parks Fund	\$2,149,086	\$1,013,000	\$1,083,500	\$0	\$0	\$4,245,586
	Smith & Bybee Lakes Trust Fund						
3	Smith and Bybee Lakes Dam Removal	\$353,500	\$0	\$0	\$0	\$0	\$353,500
7	Smith and Bybee Lakes Facility Improvements	224,500	94,300	0	0	0	318,800
	Total - Smith & Bybee Lakes Trust Fund	\$578,000	\$94,300	\$0	\$0	\$0	\$672,300
	Regional Parks Trust Fund						
5	Oxbow Park - Diack Environmental Education Center	\$307,000	\$2,549,500	\$0	\$0	\$0	\$2,856,500
	Total - Regional Parks Trust Fund	\$307,000	\$2,549,500	\$0	\$0	\$0	\$2,856,500
	Open Spaces Fund						
1B	Open Spaces Land Acquisition	\$15,000,000	\$6,037,262	\$0	\$0	\$0	\$21,037,262
	Total - Open Spaces Fund	\$15,000,000	\$6,037,262	\$0	\$0	\$0	\$21,037,262
	Total Department	\$18,034,086	\$9,694,062	\$1,083,500	\$0	\$0	\$28,811,648
	87 Projects Total Metro	\$91,586,116	\$52,312,127	\$9,062,834	\$3,457,086	\$3,868,690	\$160,286,853

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Don and Sue Blanchard
16490 SW Brookman Road
Sherwood, Oregon 97140

December 7, 2000

To Metro Council

Because we have an unchangeable commitment and cannot be at Metro today, we are asking that you consider our thoughts on the annexation to the Metro Jurisdictional Boundary.

More than a year ago, several property owners from Area 45 sought advice from Metro, including their lawyer, about how we should proceed on annexation. Many people contributed considerable time and effort to follow the guidelines exactly. We believe that we have followed the rules in effect at that time to the letter. Although I understand that some of the ground rules have been modified since we submitted our petition, we believe our good faith efforts should be respected and honored by accepting our area for annexation in accordance with the rules in effect at the time we submitted it.

We recognize the complex and difficult issues regarding growth that Metro faces. As Oregon's population continues to grow, we must make careful and thoughtful expansions in order to meet the needs of all the people and not merely hope the population will just go away.

Thank you.

Sincerely,

Don and Sue Blanchard